United States Court of Appeals

for the Second Circuit

APPELLEE'S APPENDIX

76-6074

B

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

FELIX ROJAS GONZALEZ,
Plaintiff-Appellant

-against-

SECRETARY OF HEALTH, EDUCATION, AND WELFARE OF THE UNITED STATES,
Defendant-Appellee

ADMINISTRATIVE RECORD

JOHN C. GRAY, JR.
Of Counsel: TOBY GOLICK
YVONNE LEWIS
Brooklyn Legal Services Corp. B
152 Court Street
Brooklyn, New York 11201

DAVID G. TRAGER
United States Attorney
Attorney for Appellee
225 Cadman Plaza East
Brooklyn, New York 11201

Felix Rojas-Gonzalez, Claimant and Wage Earner

Account Number 582-26-9405

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Felix Rojas-Gonzalez (Claimant) | 582-26-9405 (Social Security Number) | 1

(Wage Earner) (Leave blank if same as above)

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Felix Rojas-Gonzalez (Claimant) | 582-26-9405 (Social Security Number) | 2

(Wage Earner) (Leave blank if same as above)

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Felix Rojas Gonzalez
(CLAIMANT)

582-26-9405
(SOCIAL SECURITY NUMBER)

(WAGE EARNER) (LEAVE BLANK IF SAME AS ABOVE)

AC EXHIBIT LIST

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
P. O. Box 2518, Washington, D.C. 20013

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BUREAU OF
HEARINGS AND APPEALS

March 28, 1975

REFER TO:
~~HXXX~~ IHA:2
582-26-9405

Mr. Felix Rojas Gonzalez
5611 Kings Highway
Brooklyn, New York 11203

Dear Mr. Rojas-Gonzalez:

Enclosed is a copy of the decision of the Appeals Council on your claim under the Social Security Act.

If you disagree with the enclosed decision and desire a review by a court, you may commence a civil action in the district court of the United States in the judicial district in which you reside within 60 days from this date. For your information as to the action in the district court, your attention is directed to section 205(g) of the Social Security Act, as amended (42 U.S.C. 405(g)). Where claim is for supplemental security income see also section 1631(c)(3) of the Social Security Act, as amended (42 U.S.C. 1383(c)(3)) and where claim is for medicare see also section 1869(b) of the Social Security Act, as amended (42 U.S.C. 1395ff.(b)). If such action is commenced, the Secretary of Health, Education, and Welfare is the proper defendant.

If you have any questions, your social security office will be glad to help you.

Sincerely yours,

Irwin Friedenberg
~~HXXXXXXXXXXX~~
Member~~XXXXXXXXXX~~ Appeals Council

Enclosure

cc: Eric A. Rundbaken, Esq.

Form HA-L6
(12/73)

DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
BUREAU OF HEARINGS AND APPEALS

5

DECISION OF APPEALS COUNCIL

In the case of

Felix Rojas Gonzalez
(Claimant)

Felix Rojas Gonzalez
(Wage Earner)

Claim for

Period of Disability and
Disability Insurance Benefits

582-26-9405
(Social Security Number)

This case is before the Appeals Council, the claimant's request for review having been granted. The statements of the administrative law judge in his decision, as to the pertinent provisions of the Social Security Act, and the evidentiary facts before him, are incorporated herein by reference.

ISSUES

The general issues before the Appeals Council are whether the claimant is entitled to a period of disability and to disability insurance benefits under sections 216(i) and 223, respectively, of the Social Security Act, as amended. The specific issues are whether the claimant was under a "disability," as defined in the Act, and if so, when such "disability" commenced and the duration thereof; and whether the special earnings requirements of the Act are met for the purpose of entitlement.

The claimant's earnings record shows that the special earnings requirements of the Act were met on June 9, 1971, when the claimant allegedly became unable to work, and that these requirements continue to be met on the date of this decision.

EVIDENCE CONSIDERED

The Appeals Council has carefully considered the entire record which was before the administrative law judge, his comments pertinent thereto, the arguments made, and the additional evidence which has been admitted into the record as follows:

Exhibit AC-1 Medical reports dated September 24, 1973 and November 20, 1973, from Michael Burman, M.D.

Exhibit AC-2 Medical report dated June 12, 1974, from Thomas C. Guthrie, M.D.

Exhibit AC-3 Professional qualifications of Thomas C. Guthrie, M.D.

Exhibit AC-4 Medical report dated November 25, 1974, from Leon Rudorfer, M.D.

Exhibit AC-5 Professional qualifications of Leon Rudorfer, M.D.

Exhibit AC-6 Report of psychological evaluation on December 4, 1974, from Norman Korobow, Ph.D.

Exhibit AC-7 Social services survey report dated December 8, 1974, from Barbara Benson, Psychiatric Social Worker.

A copy of a letter dated January 29, 1975, to the claimant's representative offering him an opportunity to examine and comment on the additional evidence, is identified as Exhibit AC-8.

The claimant contends that he stopped work in June 1971 because of injuries to his head and shoulder sustained while performing duties in connection with his job as a packing-machine operator. The medical evidence consists in part of reports of examinations relative to his claim for workmen's compensation, and reports of orthopedic and neurological examinations that establish some impairment in his spine but fail to establish significant functional limitation in his ability to perform substantial physical activity. This is evidenced in findings by the Workmen's Compensation Board in September 1971 that though there were minor productive changes in the mid-dorsal spine, there was no definite evidence of fracture noted in either the cervical or dorsal spine. Disc spaces throughout the spine were normal (Exhibit 16). An orthopedic consultative examination in July 1972 identified the presence of muscle spasm without tenderness. Earlier examinations reportedly showed scoliosis of the dorsal spine (Exhibit 16, p.2) but, the consultative evaluation in July 1972 did not reveal any scoliosis or deformity. There was no measurable atrophy (Exhibit 20). Dr. Thomas C. Guthrie, as a result of a neurological consultative examination in May 1974, noted a completely normal neurological system, with normal range of active and passive motion; there were no sensory motor or reflex abnormalities; and there was no muscle weakness or deformity (Exhibit AC-2). This recent examination by Dr. Guthrie, together with the earlier orthopedic examination within 1 year of the claimant's alleged onset, establishes that the claimant's impairment does not impose significant limitations which would prevent all forms of substantial gainful activity.

Reports from several examiners suggested the need for evaluation of the claimant's apparent anxiety reaction.

Dr. Leon Rudorfer, Diplomate, American Board of Psychiatry and Neurology, examined the claimant in November 1974, and reported that he was well oriented and demonstrated no obsessional ideation or delusional material. He found no evidence of a psychiatric disorder. It was noted that he had no impairment of ability to relate to other people and there was no restriction of daily activities but there was a moderately severe constriction of interests. The claimant had excellent ability to understand and follow instructions. His ability to work with others was good, as was his ability to perform simple repetitive tasks; he retained only fair ability for complex and varied tasks. No specific treatment was recommended (Exhibit AC-4).

The claimant's performance on intelligence testing placed him within the range of average intelligence (full scale IQ 96); findings on psychological evaluation were not indicative that the claimant was psychotic nor was there evidence of organic impairment (Exhibit AC-6).

A psychiatric social survey in December 1974 shows that the claimant's emotional ability to relate to other people was not significantly impaired nor was there indication of restriction of his daily activities (Exhibit AC-7). The claimant neither contends nor does the medical evidence establish, that a mental impairment has had any significant affect on his ability to work. The psychiatric evidence shows that the claimant is coherent and rational, has no impairment of memory or judgment, no delusions and no hallucinations. There is no evidence of any disturbance in the claimant's thinking process or content of thought.

Based on the evidence of record, the Appeals Council finds that the claimant is not limited by any medically determinable physical or mental impairment of such severity as to preclude all substantial gainful activity. The claimant retains the capacity to perform work consistent with his past vocational experience. Specifically he has not been disabled from performing the sedentary and light jobs enumerated at the hearing by Benjamin H. Lipton, a vocational witness, who stated that the jobs would require only minimal retraining, and exist in reasonable proximity to the claimant's place of residence.

FINDINGS OF THE APPEALS COUNCIL

After careful consideration of the entire record, the Appeals Council makes the following findings:

1. The claimant met the special earnings requirements of the Act for disability in June 1971, and continues to meet them through the date of the decision.

2. The claimant has no significant orthopedic or neurological disease or mental or emotional impairments.

3. Considering the claimant's age, education, vocational background and residual functional capacity, he is able to perform jobs which are present in significant numbers in the region where he lives, such as janitorial and bench assembly jobs.

4. The claimant was not prevented from engaging in any substantial gainful activity for any continuous period, beginning on or before the date of this decision, which has lasted or could be expected to last for at least 12 months.

5. The claimant was not under a "disability," as defined in the Act, beginning at any time prior to the date of this decision.

DECISION

It is the decision of the Appeals Council that, based on his application filed September 9, 1971, the claimant is not entitled to a period of disability or to disability insurance benefits under the provisions of section 216(i) and 223, respectively, of the Social Security Act, as amended. The hearing decision, as herein supplemented, is affirmed.

APPEALS COUNCIL

Irwin Friedenberg, Member

Kenneth Cooper, Member

Date: 20 MAR 1975

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
P.O. BOX 2518, WASHINGTON, D.C. 20013

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BUREAU OF
HEARINGS AND APPEALS

REFER TO:
IHA-512
582-26-9405

21 AUG 1974

Mr. Felix Gonzalez Rojas
5611 Kings Highway
Brooklyn, New York 11203

Dear Mr. Gonzalez:

This letter refers to your claim for disability insurance benefits under the Social Security Act.

After reviewing the evidence of record in your case, the Appeals Council has concluded that additional evidence is necessary before a decision can be made on your disability claim. Accordingly, we have requested the New York State Agency to arrange to have you examined at no expense to you. The State agency will communicate with you in the near future so that arrangements for such examinations may be made.

Sincerely yours,

Irwin Friedenberg
Member, Appeals Council

cc:
Eric A. Rundbaken, Esquire
New York, New York 10007

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
P.O. BOX 2518, WASHINGTON, D.C. 20013

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BUREAU OF
HEARINGS AND APPEALS

REFER TO: HA:C
582-26-9405

Mr. Felix Rojas-Gonzalez
5611 Kings Highway
Brooklyn, New York 11203

Dear Mr. Rojas:

The Appeals Council grants your request for review of the hearing decision on your claim.

We wish to obtain additional medical evidence in your case and have requested the State agency to arrange to have you examined at no expense to you. The State agency will communicate with you in the near future so that the necessary arrangements may be made.

After we receive the additional evidence, you will be given an opportunity to examine it, to make comments about it, and to submit any additional evidence you may wish to have entered into the record. You also will have the right to submit a written statement about your case and to appear before the Appeals Council to present oral argument.

Sincerely yours,

Irwin Friedenberg
Member, Appeals Council

cc:
Mr. Eric A. Rundbaken
Attorney at Law
New York, New York 10007

FORM HA-L3.2
(4-73)

THE LEGAL AID SOCIETY

PARK PLACE OFFICE
ELEVEN PARK PLACE
NEW YORK, N. Y. 10007

(212) 227-2755

11

ORISON S. MARDEN
Chairman of the Board

SHELDON OLIENSIS
President

MORTON B. DICKER
Attorney-in-Charge

EDWARD Q. CARR, JR.
Attorney-in-Chief

LEON B. POLSKY
Attorney-in-Charge
Civil Division

IN REPLY REFER TO OUR NUMBER

January 24, 1974

Department of H.E.W.
Social Security Administration
Bureau of Hearings and Appeals
P.O. Box 2518
Washington, D.C.

Attention: Irwin Friedenberg

Re: Mr. Felix Rojas-Gonzales
Your file [illegible]
582-26-9405

Dear Mr. Friedenberg:

Approximately one week ago, this office submitted a letter with several legal arguments as a submission on the above appeal.

Since then, our client has obtained, from the insurance company which is apparently involved in his Workmen's Compensation case, several new medical reports and documents, which are submitted herewith. Please consider this letter and the exhibits attached as a request for leave to submit additional evidence, or to reopen the record for such submission. Thank you very much for your cooperation and courtesy.

Very truly yours,

Eric A. Lundbaken

EAL:kbe

Enclosure

The purpose of the Society is to render legal aid in the City of New York to persons who are without adequate means to employ other counsel.—By-laws of The Legal Aid Society.

BEST COPY AVAILABLE

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
P.O. BOX 2518, WASHINGTON, D.C. 20013

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BUREAU OF
HEARINGS AND APPEALS

REFER TO:
IIIA-512
582-26-9405

Mr. Eric A. Rundbaken
Attorney at Law
The Legal Aid Society
11 Park Place
New York, New York 10007

27 DEC

Dear Mr. Rundbaken:

Re: Mr. Felix Rojas-Gonzalez, 5611 Kings Highway
Brooklyn, New York 11203

This is in reference to the request for review of the administrative law judge's decision on Mr. Rojas' claim for disability insurance benefits. On such request it is indicated that additional information would be furnished. In your letter of November 26, 1973, you requested time within which to file a brief.

Pursuant to your request that you be permitted time to file a brief, the Appeals Council will delay its consideration of the request for review for a period of 20 days from the date of this letter to afford you adequate opportunity to submit additional material.

If the additional evidence is not furnished within the 20-day period or no further word is received from you, the Appeals Council will proceed with its consideration of the request for review based upon the record as it is now constituted.

Sincerely yours,

Irwin Friedenberg
Member, Appeals Council

cc:
Mr. Felix Rojas-Gonzalez

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
P.O. BOX 2518, WASHINGTON, D.C. 20013

13

BUREAU OF
HEARINGS AND APPEALS

REFER TO IHA:512
582-26-9405

Mr. Felix Rojas-Gonzalez
5611 Kings Highway
Brooklyn, New York 11203

27 NOV 1973

Dear Mr. Gonzalez:

When you requested review of the hearing decision, you indicated that you would submit additional information. You should send this information directly to the Appeals Council within 10 days from the date of this letter. If you need more time, please let us know. If you need assistance in this matter, you may wish to contact your local social security office.

If we do not hear from you within the next 10 days, we will assume that you have nothing further to submit, and we will proceed with our action on your case.

Sincerely yours,

Irwin Friedenberg
Member, Appeals Council

cc:
Eric Rundbaken, Esq.
New York, New York 10007
Division of Benefit Services,
Baltimore

IHA:512:ims 11-26-73

(1-731)

THE LEGAL AID SOCIETY

PARK PLACE OFFICE
ELEVEN PARK PLACE
NEW YORK, N. Y. 10007

(212) 227-2755

ORISON S. MARDEN
Chairman of the Board

SHELDON OLIENSIS
President

MORTON B. DICKER
Attorney-in-Charge

EDWARD Q. CARR, JR.
Attorney-in-Chief

LEON B. POLSKY
Attorney-in-Charge
Civil Division

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IN REPLY REFER TO OUR NUMBER
X5684

November 26, 1973

Appeals Council
Bureau of Hearings & Appeals SSA
P.O. Box 2518
Washington, D.C. 20013

Re: Mr. Felix Rojas Gonzalez
5611 Kings Highway
Brooklyn, New York 11203
SS # 582-26-9405

Dear Sir:

This letter is to inform you that the Legal Aid Society is representing Mr. Felix Rojas Gonzalez in his review of a hearing examiner's decision, dated October 30, 1973, which states that he is not entitled to disability benefits.

On November 11, 1973 Mr. Rojas Gonzalez individually asked the Appeals Council, Bureau of Hearings and Appeals to review the examiner's action and to be allowed to submit a further written medical report.

At this time, the Legal Aid Society in its representative capacity, would like to request permission to file a brief, after there has been an adequate opportunity to view the hearing examiner's record. We also ask that a copy of any further correspondence you may have with our client be forwarded to this office.

Very truly yours,

THE LEGAL AID SOCIETY

Eric A. Sundbaken

EAR:kbc

The purpose of the Society is to render legal aid in the City of New York to persons who are without adequate means to employ other counsel.—By-laws of The Legal Aid Society.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
BUREAU OF HEARINGS AND APPEALS

REQUEST FOR REVIEW OF HEARING EXAMINER'S ACTION

15

Take or mail original and all copies to the District Office, Social Security Administration

CLAIMANT'S NAME	CLAIM FOR
FELIX ROJAS-GONZALEZ	☑ Entitlement to Disability Benefits (97)
WAGE EARNER'S NAME	☐ Continuance of Disability Benefits (98)
	☐ Other (Specify type claim)
SOCIAL SECURITY ACCOUNT NUMBER 582-26-9405	

I disagree with the hearing examiner's action on the above claim and request that the Appeals Council, Bureau of Hearings and Appeals, review it. My reasons for disagreement are:

I am unable to do any work of any kind. I must use a cane at all times. I get dizzy spells I am under constant pain and must use heavy medication

Attach to this form, or forward within 10 days to the Appeals Council at the address shown below, any evidence or supplemental statement you wish to submit.

I understand the Appeals Council may deny my request for review, but if it grants the request:

I ☐ wish ☑ do not wish to appear before the Appeals Council in Washington, D.C. at my own expense.

I ☑ wish ☐ do not wish to file a brief or further written statement. Medical report

Signed by: (Either the claimant or representative should sign - Enter addresses for both)

SIGNATURE OR NAME OF CLAIMANT'S REPRESENTATIVE	CLAIMANT'S SIGNATURE
	× Felix Gonzalez Rojas
STREET ADDRESS	STREET ADDRESS
	5611 Kings Highway
CITY, STATE, AND ZIP CODE	CITY, STATE, AND ZIP CODE
	Brooklyn NY 11203
TELEPHONE NUMBER	DATE: 11/13/73
	TELEPHONE NUMBER none

Claimant should not fill in below this line

Is this request filed within 60 days of the hearing examiner's action? ☑ Yes ☐ No

If "No" is checked: (1) attach claimant's explanation for delay; (2) attach any pertinent letter, material or information in the district office.

ACKNOWLEDGMENT OF REQUEST FOR REVIEW OF HEARING EXAMINER'S ACTION

Request for Review of Hearing Examiner's Action in this case was filed on the date shown and at the place indicated.

The APPEALS COUNCIL will notify you of its action on your request.

Date request for review was filed 11/13/73

Place where request for review was filed 135 E 22 St Bk NY 11226

For the Social Security Administration

BY (Signature) C. Tucker

(Title) CR

(Street Address) 135 E 22 St Bk

(City) Brooklyn (State) NY (ZIP Code) 11226

Appeals Council
Bureau of Hearings and Appeals, SSA
P.O. Box 2518
Washington, D.C. 20013

Form HA-520 (12-67) APPEALS COUNCIL

DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
BUREAU OF HEARINGS AND APPEALS

16

To: Mr. Felix Rojas-Gonzalez
5611 Kings Highway
Brooklyn, New York 11203

NOTICE OF DECISION **PLEASE READ CAREFULLY**

If you disagree, in whole or in part, with the enclosed decision of the hearing examiner, you may request the Appeals Council to review it. However, your request for review must be filed within 60 days following the date shown below.

You, or your representative, may file the request for review at the nearest office of the Social Security Administration, or you may file the request for review with the hearing examiner, or with the Appeals Council.

Unless you file a timely request for review by the Appeals Council, you may not obtain a court review of your case under sections 205 (g) and 1869 (b) of the Social Security Act.

This notice and enclosed copy of hearing examiner's decision mailed to the claimant on
October 30, 1973

CC:

Name and Address of Representative: Eric A. Rundbaken, Esq.
The Legal Aid Society
11 Park Place, New York, NY 10007

Form HA-502-3
(6-72)

DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
BUREAU OF HEARINGS AND APPEALS

17.

HEARING DECISION

In the case of	Claim for
Felix Rojas Gonzalez (Claimant)	Period of Disability and Disability Insurance Benefits
(Wage Earner)(Leave blank if same as above)	582-26-9405 (Social Security Number)

This case is before the undersigned Administrative Law Judge upon a timely filed request for hearing by the claimant, Felix Rojas Gonzalez, who disagrees with the determination of the Social Security Administration denying his application for a period of disability and disability insurance benefits under sections 216(i) and 223, respectively, of the Social Security Act, as amended.

After due notice, a hearing was held in the Bureau of Hearings and Appeals, 175 Remsen Street, Brooklyn, New York, on September 24, 1973, at which time the claimant appeared personally and testified. The claimant was duly represented by Eric A. Rundbaken, Esq., of the Legal Aid Society of New York. Benjamin H. Lipton appeared and testified under oath as a vocational expert upon prior notice to claimant. A Spanish translator was employed. Mr. Lipton's status as an expert was conceded by counsel. I have considered the brief and arguments submitted by Mr. Rundbaken on October 23, 1973.

PROCEDURAL AND ADJUDICATIVE HISTORY

The claimant filed an application for a period of disability and disability insurance benefits on September 9, 1971, which was initially denied by the Social Security Administration. Upon reconsideration, on August 22, 1972, the Administration affirmed its denial of the claim on the ground that the claimant was not under a "disability" as defined in the Social Security Act. Thereafter, the claimant filed a request for hearing on September 26, 1972. On June 7, 1973, a Notice of Hearing was issued returnable June 20, 1973. The hearing was duly opened on the return day but was thereafter adjourned, at the claimant's request, until such time as claimant could secure counsel. By letter dated June 22, 1973, the Legal Aid Society entered an appearance on claimant's behalf. On August 3, 1973, an Amended Notice of Hearing was issued, the hearing notice for September 24, 1973.

APPLICABLE LAW AND ISSUES

The general issues before the Administrative Law Judge are whether the claimant is entitled to a period of disability and to disability insurance benefits under Sections 216(i) and 223, respectively, of the Social Security Act, as amended. The specific issues are whether the claimant was under a "disability", as defined in the Social Security Act, as amended, and if so, when such disability commenced and the duration thereof; and whether the special earnings requirements were met for the purpose of entitlement.

Section 223(d)(1) of the above Act defines a "disability":

> "(A) inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months;"

Section 223(d)(2) provides:

> "(A) an individual ...shall be determined to be under a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work. For purposes of the preceding sentence (with respect to any individual), 'work which exists in the national economy' means work which exists in significant numbers either in the region where such individual lives or in several regions of the country."

Section 223(d)(3) provides:

> "For purposes of this subsection, a physical or mental impairment' is an impairment that results from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques."

Section 223(d)(5) provides:

> "An individual shall not be considered to be under a disability unless he furnishes such medical and other evidence of the existence thereof as the Secretary may require."

The claimant's earnings record shows that the special earnings requirements of the Act were met from a time prior to June 9, 1971, when the claimant allegedly became unable to work, and that these requirements will continue to be met through March 31, 1975.

In order to merit consideration and a determination of "disability," as defined in the Social Security Act, an allegation of physical limitations must be "medically determinable," e.g., it must be shown that it results from organic dysfunction or other demonstrable causes. In this regard, Section 404.1501(c) of Social Security Administration Regulations No. 4, states:

> "(c) Definition of Impairment. A physical or mental impairment is an impairment that results from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques. Statements of the applicant, including his own description of his impairment (symptoms) are, alone, insufficient to establish the presence of a physical or mental impairment."

SUMMARY AND EVALUATION OF THE EVIDENCE

Claimant, Felix Rojas Gonzalez, born June 5, 1921, is Spanish-speaking, unmarried, has a second grade education, and came to the mainland United States from Puerto Rico in 1956 where he had been an agricultural employee. He became a packing machine operator of mattress stuffing and a furniture polisher. He alleges disability since June 9, 1971, when, at work, he fell on his back through a vertical distance of about 25 feet. The fall resulted in a period of unconsciousness, pain in the back and shoulders. Claimant was immediately hospitalized(The Brooklyn Hospital) for seventeen days. He thereafter received New York State Workmen's Compensation benefits through the Spring of 1972 and was examined and treated by several physicians under its auspices(Exhibits 15 and 16).

The evaluation of the medical evidence in this case will be directed primarily to determining the degree of functional loss or restriction that results from any and all existing impairments. In determining whether any single impairment, or combination of various impairments, has rendered this claimant unable to engage in all substantial gainful activity, primary consideration must be given to the severity of any such impairment as evidenced by the medical facts, and by the extent of the handicap that has been imposed upon this particular individual.

Claimant alleges constant back pain and pain in the left arm since the date of the accident. He states he cannot sit or stand for long periods and feels relief only when supine (Exhibit 9, p.2). He takes pills three times a day for pain; massage treatment in 1971 three times per week at the doctor's office and warm baths for his arm. In 1972, he received heat treatments once a week at the doctor's office (Exhibit 15).

Claimant asserts that he takes a short walk after breakfast each day and then lies down for ten to fifteen minutes. He then watches television for ten to fifteen minutes and then lies down again. He follows this routine until retiring at 8:00 p.m. He rarely goes out and rarely has visitors. He has no trouble dressing. He lives in a two family house on the second floor. Someone else cleans his house and cooks. He does his own shopping.

His last job (packing machine operator) required constant standing and walking and lifting of items weighing 50-60 pounds (Exhibit 12). As a furniture polisher, standing, lifting and carrying (25 pounds) were job requirements. Claimant speaks and understands little English.

Medical evidence from examining physicians of the New York State Workmen's Compensation Board (Exhibit 16) included on x-ray report of September 29, 1971 showing no evidence of fracture or dislocation; a diagnosis of cerebral concussion, cervical spinal sprain with cervical radiculitis and epicondylitis of the left elbow. Treatment by bed rest, analgesics, muscle relaxants, hot packs, ultrasound and exercise. The disc spaces appeared normal but the dorsal spine showed scoliosis to the right.

The May 15, 1972, diagnosis of another of the Workmen's Compensation examining physicians was that of compression fracture of the 4th and 8th Thoracic vertebrae, fibromyositis, diffuse, of the back. This physician stated claimant could resume limited work as of February 28, 1972 but was to avoid heavy lifting.

The record of claimant's admission to Brooklyn Hospital (Exhibit 17, p. 2) in the period June 9 to June 26, 1971, concludes with a diagnosis of compression fracture and cerebral concussion. The x-ray disclosed an old rotary scoliosis with wedging at the 3rd and 7th dorsal bodies where his pain was characterized as "exquisite." Pain in the shoulders and limitation of mo ion in the spine was noted.

On July 6, 1972, claimant underwent a consultative examination by a Board-certified orthopedic surgeon (Exhibit 20). Claimant apparently told the physician at that time he could sit for ½ hour, stand for three hours, walk approximately 4 blocks, was unable to lift more than 10 pounds but able to use public transportation.

The examination showed no scoliosis or deformity. Spasm, but no tenderness appeared at the sacroiliac. Forward flexion wa possible to 55 degrees; lateral bending to both left and right was 20 degrees; straight leg raising was 75 degrees left and 70 degrees right. Tendon reflexes, ankle and knee jerks were normal; no atrophy or weakness. Voluntary guarding of motion appeared to exist.

Examination of the cervical spine showed full flexion and extension but with restriction of rotation. Hands, arms, shoulders, muscles, grasp, elbows and wrists were normal. Thoracic spine x-ray showed a scoliosis with angulation and rotary wedging.

Subsequent to the hearing, claimant submitted the report of examination of July 23, 1973 by M. Springer, M.D. (Exhibit 25) who described claimant's condition as that of a "post fracture syndrome of multiple fractures of the cervical vertebra ...marked by restriction of the neck, decreased resistance power in the posterior-anterior positions, marked tenderness upon percussion over the fracture sight, improperly performed toe-heel tests, defect on flexion and rotation of the trunk at the 3/4 mark.

The clinical and x-ray evidence of the existence of fracture is thus in dispute. That claimant sustained a severe injury with residual losses of motion in June, 1971 and, according to Mr. Lipton's testimony is unable to return to work at his previous jobs are not in dispute. I so find.

On July 6, 1972, as above noted, he told the consultative orthopedic surgeon that he could sit for ½hour; stand for three hours, walk four blocks, use public transportation and lift up to 10 pounds. The consultative orthopedic surgeon, however, concluded claimant could lift up to 30 pounds and although he had no impairment of sitting, standing or walking, he should avoid repetitive bending and stooping. There was full use of the hands.

Mr. Lipton, the vocational expert, observed claimant to be bright and alert, age 52. Mr. Lipton testified, in substance, that assuming a state of residual functional capacity either as admitted by claimant to the consultative orthopedic surgeon on July 6, 1972(the date of the examination) or as more broadly found by the consultative orthopedic surgeon, claimant could perform without the need for training various light and sedentary jobs found in the New York Metropolitan area. He testified claimant could do so notwithstanding his illiteracy in Spanish and English and his almost complete lack of education. The jobs were in the assembly of small parts(electronics, toys, and similar industries) wherein there were approximately 30,000 jobs, watchman; and light janitorial work, three to five thousand jobs. Overall, Mr. Lipton said it was impossible to tell exactly how many of the 30,000 jobs required some bending and how often.

I stated at the hearing that although the matter was not free from doubt, I would not find claimant could perform the duties of guard or watchman, considering his education, illiteracy and impairments.

Mr. Lipton testified that the 3-5000 light janitorial jobs required ability to move a vacuum cleaner, dust and empty a light waste paper basket.

Lastly, Mr. Lipton testified that if the orthopedic surgeon's somewhat greater conclusions of claimant's residual functional capacity were observed, claimant could perform a slightly wider variety of similar work than that based on his own admissions of physical capacity.

Counsel for claimant makes several arguments. First, he asserts that since claimant has not demonstrated an ability to perform work lighter than that which he previously performed, his ability to perform lighter work " . . . is total speculation."

Apart from counsel's concession of Mr. Lipton's expertise-otherwise amply demonstrated in the record-Mr. Lipton's conclusions concerning jobs available for this claimant are expert opinions based on claimant's residual functional capacity as stated to him, hardly speculations. Furthermore, counsel failed to object to either the questions as propounded or the answers as given.

Second, counsel asserts that Mr. Lipton relied exclusively on the Dictionary of Occupational Titles for the types of jobs claimant could perform. As I understood his testimony, he used the terms "light" and "sedentary" as those terms are defined in that work. Moreover, he explicitly stated that he was relying on his direct observation and own experience in the training and placement of handicapped persons as a basis of conclusion concerning job availability.

Thirdly, the issue of credibility in this case, relating to 23
assertions of claimant's pain and restriction of motion, is not so vital as in others since I am relying in large part on claimant's own admission of his ability to walk, stand, sit and use public transportation, rather than on any disputed capacity. Thus, counsel's argument that to draw any conclusion other than that claimant is in almost continuous pain and suffering is in conflict, in large part, with what I see are claimant's admissions of abilities to perform limited physical acts without substantial pain. It is within those physical limits that the vocational testimony is material.

Fourth, counsel argues that claimant cannot bend at all, and cannot, therefore perform any job requiring any bending. I do not see the evidence to be so sweeping. None of the jobs Mr. Lipton mentioned, required repetitve bending, which, alone, I find claimant cannot perform.

Lastly, the post-hearing evidence, Dr. Springer's report of July, 1973, does not suggest any physical restrictions or pain which would undermine Mr. Lipton's testimony. Rather, it notes tenderness on percussion at the fracture sight and marked restriction of the neck. Nothing is said therein regarding an inability to perform light work.

Even the findings of the Workmen's Compensation physicians(Exhibit 16) indicate that claimant could resume work. The only difference in their conclusions is whether, within twelve months of claimant's June 6, 1971 injury(i.e., the alleged onset date), claimant should be able to resume his regular work(Exhibit 16, p. 1, Dr. Frider) or whether claimant could resume "limited work as of February 28, 1972 but that he should avoid heavy lifting"(Exhibit 16, pgs. 2-3, Dr. Rogers).

The preponderance of the medical evidence herein, substantiated by the statutory medically acceptable clinical and laboratory diagnostic techniques, fails to establish that this claimant has impairments of sufficient severity and duration so as to constitute a "disability" within the meaning of the law during the alleged period.

FINDINGS AND CONCLUSIONS

From an analysis of all the substantive and credible evidence of record, including proper consideration of the claimant's age, education, past work history and medical status, the Administrative Law Judge makes the following findings and conclusions:

1) The claimant filed an application for a period of disability and for disability insurance benefits on September 9, 1971, alleging disability from June 9, 1971, at age 50.

2) The claimant met the special earnings requirements for disability purposes on June 9, 1971, the alleged onset date of disability, and continues to meet such requirements through the date of this decision.

3) The evidence fails to establish that the claimant has any medically determinable physical or mental impairment, or combination thereof, which has lasted, or can be expected to last for a continuous period of 12 months, and which would preclude the performance of all substantial gainful activity, including those jobs enumerated by the vocational evidence of record above set forth, which exist in significant numbers in the New York Metropolitan area.

4) It is the conclusion of the Administrative Law Judge that the claimant is not under a "disability" as this term is defined in the Social Security Act, as amended, at any time through the date of this decision.

DECISION

It is the decision of the Administrative Law Judge that, based on the application filed on September 9, 1971, the claimant is not entitled to a period of disability and disability insurance benefits under the provisions of sections 216(i) and 223, respectively, of the Social Security Act, as amended, in accordance with the above findings and conclusions.

Robert W. Leiner

DATE: October 30, 1973

ROBERT W. LEINER
Administrative Law Judge

DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
BUREAU OF HEARINGS AND APPEALS

25

NOTICE BY ATTORNEY OF APPOINTMENT AS REPRESENTATIVE

I have been appointed by Felix Rojas-Gonzalez
(Claimant)

to act as (his) ~~(her)~~ representative with respect to (his) ~~(her)~~ claim under the Social Security Act and/or the Black Lung Benefits Act based on the earnings record of

Felix Rojas-Gonzalez 582-26-9405
(Wage Earner) (Social Security Number)

I am authorized to obtain from the Administration information concerning this claim; and it is understood that any notice or request sent to me shall have the same force and effect as if sent to the above claimant.

I am in good standing in the courts in which I have been admitted to practice law.

Attorney waives fee.

Eric A Rundbaken
(Signature of Attorney)

Eric A. Rundbaken, Esq.
(Type or Print Name of Attorney)

The Legal Aid Society
(Address)

11 Park Place, NY, NY 10007

227-2755 X261
(Telephone Number)

Sept. 24, 1973
(Date)

(SEE REVERSE SIDE FOR IMPORTANT INFORMATION ON REGULATIONS PERTAINING TO FEES FOR SERVICES TO A PARTY AND INFORMATION ON CONFLICT OF INTEREST)

FORM HA-512.1

FEES FOR SERVICES OF ATTORNEY

The rules governing fees for the representation of claimants appear in sections 404.971 through 404.977(a) of Social Security Administration Regulations No. 4 (20 CFR 404.971 – 404.977(a)) and sections 410685 through 410.686e of Social Security Administration Regulations No. 10 (37 F.R. 17707, August 31, 1972). In summary, the regulations provide that:

An attorney desiring to charge and receive a fee for services rendered for an individual in any proceeding before the Administration under titles II or XVIII of the Social Security Act or under title IV of the Federal Coal Mine Health and Safety Act, as amended, must file a written petition to obtain approval of such fee. The petition must contain, in addition to other specific information, an itemization of the services rendered and the time expended as set forth in §404.976(a) and §410.686c(a). The amount of the fee, if any, will be determined on the basis of the various factors described in §404.976(b) and §410.686c(b) by an authorized official of the appropriate component of the Administration where the attorney's services were concluded, and no fee shall be charged or received which is in excess of the amount approved. This rule is applicable whether the fee is charged to or received from a party to the proceeding or someone else (§404.975 and §410.686b).

* * * * * * * * *

The attorney should maintain an itemized record of his services rendered and the time expended in any social security case or black lung case he handles. This will facilitate the preparation of the required petition.

Printed petition forms, which provide for the inclusion of all the required information, are available upon request from social security offices, hearing offices, or the Bureau of Hearings and Appeals, Social Security Administration, P.O. Box 2518, Washington, D.C., 20013.

Section 206(a) of the Social Security Act provides:

"* * * Any person * * * who shall knowingly charge or collect directly or indirectly any fee in excess of the maximum fee, or make any agreement directly or indirectly to charge or collect any fee in excess of the maximum fee, prescribed by the Secretary shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall for each offense be punished by a fine not exceeding $500 or by imprisonment not exceeding one year, or both."

Section 413(b) of the Federal Coal Mine Health and Safety Act, as amended, and section 1872 of the Social Security Act provide that section 206(a) applies to black lung and medicare claims, respectively.

CONFLICT OF INTEREST

Sections 203, 205 and 207 of Title 18 of the United States Code make it a criminal offense for certain officers, employees and former officers and employees of the United States to render certain services in matters affecting the Government or to aid or assist in the prosecution of claims against the United States.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
BUREAU OF HEARINGS AND APPEALS

27

AMENDED NOTICE OF HEARING

In the case of

Felix Rojas-Gonzalez
(Claimant)

(Wage Earner) (Leave blank if same as above)

Claim for
Period of Disability and
Disability Insurance Benefits

562-26-9405
(Social Security Number)

TO: Mr. Felix Rojas-Gonzalez
5611 Kings Highway
Brooklyn, N.Y. 11203

The hearing in this case which was scheduled for June 20, 1973 (Date) will be held instead on the 24th day of Sept. 1973 at 9:30 o'clock in room 1201 of _____ Building, 175 Remsen St. (Number and Street), Brooklyn (City), New York (State).

IMPORTANT—Please sign and return at once the enclosed postal card notifying me whether you will be present at the above time and place. No postage is required on this card.

A Vocational Expert will be present and will testify.

A Spanish interpreter will also be present.

xxxxxxxxx Adm. Law Judge
Robert W. Leiner

Date
August 3, 1973

Telephone Number
596-5090

Mail Address
Bureau of Hearings & Appeals
Room 1201, 175 Remsen St.
Brooklyn, N.Y.

cc Representative (Name and Address)
Diana Ortiz, The Legal Aid Society, 11 Park Place, New York, N.Y. 10007

District Office (Address)
135 E. 22nd St., Brooklyn, N.Y. 11226

Enclosure

Form HA-538b
(11-71)

HEARING FILE

THE LEGAL AID SOCIETY

ELEVEN PARK PLACE
NEW YORK, N. Y. 10007

TELEPHONE:
BARCLAY 7-2755

EDWARD Q. CARR, JR., ATTORNEY-IN-CHIEF
WILLIAM M. CHISHOLM, EXECUTIVE ASSISTANT

ORISON S. MARDEN
Chairman of the Board

SHELDON OLIENSIS
President

ARTHUR L. LUMAN
DEAN ROBERT MC KAY
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LEONARD SAND
Vice Presidents

HAROLD H. HEALY, JR.
Treasurer

JOHN R. HORAN
Assistant Treasurer

DAVID N. DINKINS
Secretary

MRS. EDWARD B. EDWARDS
Assistant Secretary

28

June 22, 1973

Social Security Administration
Hearing Section
125 Remsen Street
Brooklyn, New York

Dear Sir:

I am representing Mr. Felix Gonzales Rojas at a Fair Hearing concerning his eligibility for a Social Security Disability Pension. Mr. Rojas resides at 5611 Kings Highway, Brooklyn, New York 11263. I wish to have permission to see Mr. Rojas' files in preparation for the hearing. I am enclosing a realease form signed by Mr. Rojas.

Thank you in advance for your trouble.

Very truly yours,

THE LEGAL AID SOCIETY

Diana Ortiz

Diana Ortiz
Law Intern

DO/pn

RECEIVED
JUN 28 1973

[Date] 6/21/73

TO:

RE:

Dear Sirs:

I, Felix Gonzales Rojas of _____

_____, hereby grant permission to

Diana Ortiz, of The Legal Aid Society,

Room 810, 11 Park Place, New York, N.Y. 10007, to

examine all data pertaining to the above matter and to

obtain any and all information and documents which would

be available to me if I were to appear in person.

Felix Gonzales Rojas

Legal Signature

BEST COPY AVAILABLE

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
BUREAU OF HEARINGS AND APPEALS

NOTICE OF HEARING

Re: of
[redacted] Felix Rojas-Gonzalez
(Claimant – Wage Earner)

582-26-9405
(Social Security Number)

Claim For 30
Period of Disability and
Disability Insurance Benefits

TO: Mr. Felix Rojas-Gonzalez
5611 Kings Highway
Brooklyn, N.Y. 11203

Pursuant to your written request and provisions of section 205(b) of the Social Security Act, a hearing will be held by the undersigned, an Administrative Law Judge of the Bureau of Hearings and Appeals, on the 20th of June 1973 at 9:30 o'clock in Room 1201 of _____ Building, 175 Remsen St. (Number and Street), Brooklyn (City), N.Y. (State).

The general issues to be determined are whether you are entitled to a period of disability under section 216(i) and to disability insurance benefits under section 223(a).

The specific issues to be decided are: (1) Whether you have the required insured status under the law; and if so, as of what [redacted]; (2) The nature and extent of your impairments; (3) Whether your impairment has lasted or can be expected to [redacted] for a continuous period of at least 12 months, or can be expected to result in death; (4) Your ability to engage in substantial gainful activity since your impairment began; (5) When your disability, if any, began.

This hearing involves your application(s) filed on September 9, 1971 (Date).

You should be prepared to prove that you were under a disability on or before date of hearing. (Date).

It may be to your interest to have your physicians appear at the hearing to testify on your behalf. Be prepared to furnish: your entire work history, including names of employers, dates of employment and a description of duties performed; schools and training; names of physicians who have examined or treated you; and periods of hospitalization with names of hospitals.

REMARKS: PLEASE BRING AN INDIVIDUAL WHO SPEAKS BOTH ENGLISH AND SPANISH TO THE HEARING WITH YOU. Also bring any medical records not previously submitted.
A Vocational Expert will be present and will testify at the hearir

IMPORTANT--Please sign and return at once the enclosed postal card notifying me whether you will be present at the above time and place. No postage is required on this card.

Administrative Law Judge	Mail Address
Robert W. Leiner	Bureau of Hearings & Appeals Room 1201, 175 Remsen St. Brooklyn, N.Y. 11201
Date: June 7, 1973	Telephone Number: 596-5890

cc: Representative *(Name and Address)*

[redacted] District Office *(Address)*
135 E. 22nd St., Brooklyn, N.Y. 11201

Enclosure
READ THE OTHER SIDE OF THIS NOTICE FOR FURTHER INFORMATION REGARDING YOUR HEARING

FORM HA-507.1
(9-72)

HEARING FILE

(Over)

IMPORTANT INFORMATION

What is Meant by "Disability"

To be found under a "disability", an individual must be unable to engage in any substantial gainful activity due to a medically determinable physical or mental impairment which has lasted or can be expected to last for a continuous period of at least 12 months, or can be expected to result in death. The impairment must be so severe as to prevent the individual from engaging not only in his usual work, but, considering his age, education, previous training and work experience, in any other kind of substantial gainful work which exists in significant numbers either in the region in which he lives or in several regions of the country.

Appearance At Hearing

The date and time of this hearing have been set aside especially for you. Your failure to appear without good reason may cause dismissal of your Request for Hearing. Even though there is good reason, any postponement will delay disposition of your case. If an emergency arises preventing your appearance after you mail the postal card stating that you will be present, notify the Administrative Law Judge promptly and give your reasons. Also indicate the earliest date after which your case can be re-scheduled for hearing.

Conduct of Hearing

The law places on you the burden of submitting evidence to support your claim. Bring to the hearing all evidence not already presented in your case.

You will have an opportunity to examine the documentary evidence on the day of the hearing. If you wish to examine it before the day of the hearing you may do so at the hearing office.

[redacted] hearing the Administrative Law Judge will inquire fully into the matters at issue. You may present evidence either in the form of written documents or the testimony of witnesses, or both. Your testimony and that of any witnesses will be under oath or affirmation, and a verbatim record of the proceedings will be made. You may suggest findings of fact or conclusions of law and present arguments orally or in writing.

Representation

While it is not required, you may be represented at the hearing by an attorney or other qualified person of your choice, if you desire assistance in presenting your case. Any fee which your representative wishes to charge for his services in your case must be approved by the Bureau of Hearings and Appeals. Your representative must petition for fee approval at the conclusion of his services, and furnish you with a copy of his petition.

If you are found entitled to benefits and your representative is an attorney, 25 percent of your back benefits will normally be withheld for payment to your attorney upon approval of his fee. If the approved fee is less than the 25 percent withheld, the difference will be paid directly to you. If the approved fee is more than 25 percent, payment of the difference is a matter to be settled between you and your attorney.

If your representative is not an attorney, none of your benefits will be withheld; and payment of the fee which is approved is a matter to be settled between you and him.

If you have any other questions, your local Social Security office will be glad to help you.

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Room 1201, 175 Remsen Street
Brooklyn, New York 11201

April 27, 1973

Tel. No. 596-5890

Jerome B. Lee, Esq.
c/o Lee, Kirsch & Lefkowitz
401 Broadway
New York, N.Y. 10013

Re: Felix Rojas Gonzalez
Soc. Sec. A/N 582-26-9405
5611 Kings Highway
Brooklyn, N.Y. 11233

Dear Mr. Lee:

The above-named claimant has filed an application for disability benefits under the Social Security Act, which is now pending before me.

The claimant appeared in this office, this date, and stated that he had engaged you as his representative.

He further stated that he has been treated by Dr. Eugene J. Rogers, 1664 41st Street, Brooklyn, New York 11218, for the past 20 months. Before I schedule this case for hearing, I should like you to secure medical evidence of diagnosis and treatment in that period from Dr. Rogers and forward it to this office. Enclosed is a waiver for release of medical information, signed by claimant.

Your cooperation in this matter is greatly appreciated.

A self-addressed, postage-free envelope is enclosed for your convenience.

Very truly yours,

Robert W. Leiner
Administrative Law Judge

Encls.

33

Room 1201, 175 Remsen Street
Brooklyn, New York 11201

Tel. No. 596-5890

April 12, 1973

Mr. Felix Rojas Gonzalez
5611 Kings Highway
Brooklyn, N.Y. 11203

Re: Soc. Sec. A/N 582-26-9405

Dear Mr. Gonzalez:

Please submit additional evidence which you stated you have in your request for hearing, dated September 26, 1972.

Very truly yours,

Robert W. Leiner
Administrative Law Judge

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
BUREAU OF HEARINGS AND APPEALS

REQUEST FOR HEARING

Take or mail original and all copies to your local Social Security office. 34

CLAIMANT'S NAME
FELIX ROJAS GONZALEZ

WAGE EARNER'S NAME (Leave blank if same as above)

SOCIAL SECURITY NUMBER
582-26-9405

CLAIM FOR
☒ Entitlement to Disability Benefits (97)
☐ Continuance of Disability Benefits (98)
☐ Other
(Specify type claim)

I disagree with the determination made on the above claim and request a hearing before a hearing examiner of the Bureau of Hearings and Appeals. My reasons for disagreement are:

I AM STILL DISABLED. I AM UNDER A DOCTOR'S CARE AND NOT ABLE TO WORK

Check one of the following:
☒ I have additional evidence to submit. (Attach such evidence to this form or forward to the Social Security Office within 10 days.)
☐ I have no additional evidence to submit.

Check ONLY ONE of the statements below.
☒ I wish to appear in person before the hearing examiner.
☐ I waive my right to appear and give evidence, and hereby request a decision on the evidence before the hearing examiner.

Signed by: (Either the claimant or representative should sign-Enter addresses for both. If claimant's representative is not an attorney, complete Form SSA-1696)

SIGNATURE OR NAME OF CLAIMANT'S REPRESENTATIVE	CLAIMANT'S SIGNATURE
ADDRESS	ADDRESS: 5611 Kings Highway
CITY, STATE, AND ZIP CODE	CITY, STATE, AND ZIP CODE: Brklyn N.Y. 11203
TELEPHONE NUMBER	DATE: (Claimant should not fill in below this line)
	TELEPHONE NUMBER: NONE

Is this request filed within 6 months of the reconsideration determination? ☒ Yes ☐ No
If "No" is checked: (1) attach claimant's explanation for delay, (2) attach any pertinent letter, material, or information in the Social Security Office.

ACKNOWLEDGMENT OF REQUEST FOR HEARING

Your request for a hearing was filed on Sept 26, 1972 at Flatbush N.Y.
The hearing examiner will notify you of the time and place of the hearing at least 10 days prior to the date which will be set for the hearing.

Hearing Examiner Copy

TO:
☒ Hearing Examiner 26 Federal Plaza N.Y.C. (Location)

Claim File Copy

TO:
☐ Hearing Examiner-Disability file in BDI TELETYPE BDI, BALTIMORE, MD.
☐ Payment Center _____ (Location)
☐ BHI _____ (Location)
☐ DIC (BRSI) ☐ CWAB (BDPA)

Interpreter Needed _____ (Language)

For the Social Security Administration

By: _____ (Signature) _____ (Title)
135 E 22 St (Street Address)
Brklyn N.Y. 11226 (City) (State) (ZIP Code)

Servicing District Office Code 127

Form HA 501 (6-69)

HEARING EXAMINER

DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
BUREAU OF HEARINGS AND APPEALS

35

TRANSCRIPT

In the case of

Felix Rojas-Gonzales
(Claimant)

(Wage Earner) (Leave blank if same as above.)

Claim for

Period of Disability and
Disability Insurance Benefits

582-26-9405
(Social Security Number)

Hearing Held

at

Brooklyn, New York

on

June 20, 1973

APPEARANCES. Felix Rojas-Gonzales, Claimant
Thomas Bidot, Spanish Interpreter

Robert W. Leiner
ADMINISTRATIVE LAW JUDGE

Sally Friedman
HEARING ASSISTANT

Form HA 501
(3-71)

C O N T E N T S

Opening Statement by Adm. Law Judge 3

(Hearing was adjourned for the purpose of permitting the claimant, Felix Rojas-Gonzales, an opportunity to secure legal counsel.)

PROCEEDINGS 37

(The following is a transcript of the hearing held before Robert W. Leiner, Administrative Law Judge, Bureau of Hearings and Appeals, Social Security Administration, Department of Health, Education, and Welfare, on June 20, 1973, at Brooklyn, New York, in the case of Felix Rojas-Gonzales, claimant and wage earner, Social Security Account Number 582-26-9405. The claimant, Felix Rojas-Gonzales, appeared in person and was not represented by an attorney.)

(Hearing commenced at 10:44 a.m., June 20, 1973.)

XXXXXXX OPENING STATEMENT BY ADM. LAW JUDGE

ADM. LAW JUDGE: On the record now?

We are?

We are ready to proceed now.

It is approximately 10:44 in the morning, and today is June the 20th, 1973.

Let's go off the record now.

(Discussion off the record.)

ADM. LAW JUDGE: We are ready to proceed in this hearing.

Present, as aforementioned, Mr. Benjamin Lipton, a vocational expert; Mr. Thomas Bidot, a translator; and the claimant, Felix Gonzales-Rojas.

Right?

CLAIMANT: Uh-huh.

Ace-Federal Reporters, Inc.

ADM. LAW JUDGE: Now, Mr. Rojas-Gonzales is here to establish a Period of Disability and Disability Insurance Benefits based on his earnings record, the account number being 582-26-9405.

Now, Mr. -- Would you prefer me to address you as Mr. Gonzales or Mr. Rojas or Mr. Gonzales-Rojas?

How -- How do you --

CLAIMANT: Gonzales-Rojas.

ADM. LAW JUDGE: Mr. Gonzales-Rojas, we proceed here by sworn testimony, meaning that it's under oath.

So I'm going to ask you now to raise your right hand and repeat after me, please.

All right.

Now, Mr. Bidot, would you raise your -- You can put your right hand down.

CLAIMANT: Uh-huh.

ADM. LAW JUDGE: Now -- Now, the hearing is in Room 1201 of the Bureau of Hearings and Appeals at 175 Remson (phonetic) Street, Brooklyn, New York.

Mr. Gonzales-Rojas, I see that you are here without your attorney.

Is.that right?

CLAIMANT: Yes. No. Yes, yes.

ADM. LAW JUDGE: You're here without him, right.

And you -- You want to proceed without him?

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CLAIMANT: My letter to my case -- My letter to my case --

ADM. LAW JUDGE: No, Mr. Rojas. Mr. Rojas-Gonzales, listen to me. Listen to me.

If we're going to do anything in the case --

CLAIMANT: Uh-huh.

ADM. LAW JUDGE: -- you must go according to the procedures that we have here, and you will answer my questions.

Now, would you translate that, please?

Do you agree to that, Mr. Gonzales-Rojas?

CLAIMANT: Huh?

ADM. LAW JUDGE: Do you agree to that?

CLAIMANT: Okay.

ADM. LAW JUDGE: Because if we can't do that, there's no use holding the hearing.

CLAIMANT: Okay.

ADM. LAW JUDGE: Okay?

Now, there's been some correspondence with a law firm in this case; and they say they do not represent you in this hearing.

Now, do you intend to proceed without an attorney today?

That's all I'm asking.

Just ask him "yes" or "no," does he intend to proceed?

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MR. BIDOT: I don't know.

ADM. LAW JUDGE: That's all right.

MR. BIDOT: He wants a lawyer.

ADM. LAW JUDGE: You want a lawyer?

CLAIMANT: Yes.

ADM. LAW JUDGE: All right.

Then we will have to adjourn the hearing for 3 or 4 weeks or whatever it is until you can get one.

I'm going to reverse myself on that. I'm going to reverse myself on that.

You have been given an opportunity since at least April to get a lawyer.

CLAIMANT: Yes.

ADM. LAW JUDGE: And you have not gotten a lawyer.

What did he answer?

MR. BIDOT: That he has not received any letter about that.

ADM. LAW JUDGE: In other words, you didn't know that you had a right to a lawyer here?

MR. BIDOT: That he has not received letter or communication of any kind.

ADM. LAW JUDGE: Well, I just want to make sure that you understand that you have been notified of your right to an attorney.

But if you tell me that you want to proceed with an

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attorney -- 41

Well, let me ask you this: Have you tried to get a lawyer?

MR. BIDOT: He has not tried to get a lawyer.

ADM. LAW JUDGE: I know he's your Workmen's Compensation lawyer. I know.

CLAIMANT: In his office he told me I got a Social Security because I got a 2 bones broke in the back.

ADM. LAW JUDGE: All right.

Now --

CLAIMANT: 40 year I work in this country.

ADM. LAW JUDGE: Now, Mr. Rojas, all I want to know is whether you want to stop the hearing and we'll re-schedule it for some other time in the next 3 or 4 months, when we can get to it, if you want a lawyer.

If you -- You don't have to have a lawyer; but if you want a lawyer, I'll put the case over and we'll try it some other time.

Now, what's your choice?

What's your choice?

Mr. Bidot, don't get excited.

Now, this is not the first time this sort of thing happens, so all I want you to do is ask him -- is to translate. Don't get into arguments with him, you know, because he's a -- a --

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CLAIMANT: Listen --

ADM. LAW JUDGE: Don't say "listen" to me.

CLAIMANT: Uh-huh.

ADM. LAW JUDGE: -- and he wants to make conversation. And I understand that. That's all right.

He's had a difficult time. He's been injured, you see.

But we must have some method of proceeding in the case, or else we're not going to get any place.

Now, let's start from the beginning.

Tell him that he has a right to a lawyer.

Ask him if he understands what you just said.

CLAIMANT: Okay.

ADM. LAW JUDGE: Okay.

Now, tell him that, in order to present his case here, he is not -- He is not under any obligation to have a lawyer.

So, although he has to -- He --

Tell him that, although he has the right to a lawyer, he is under no obligation to have one.

However -- What does he say? No, no.

MR. BIDOT: He says that the case is not proved that he has to put a lawyer in his favor.

ADM. LAW JUDGE: Now, if he wants the lawyer, we'll put the case over for several months; and I don't know when we

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can re-schedule it again, because, obviously, I have a heavy calendar.

Or I'll give him the right to get a lawyer.

Or else we can proceed today.

I don't understand you. Speak in Spanish to the translator.

MR. BIDOT: What he wants to say is that if the Social Security office approve disability for him, then he doesn't need a lawyer.

ADM. LAW JUDGE: That may be. That may be. But that's why we're --

Tell him that's what we're here for, to see if you're going to get Social Security Benefits.

Tell him that.

What did he say?

MR. BIDOT: He -- He says that you're the same. That -- He says that that's what he wants to know, if he has the right or not.

ADM. LAW JUDGE: And we're going to tell him whether he has the right or not, but we first want to know whether he wants a lawyer.

If he wants the lawyer, we'll have to put the case over right away because we can't proceed.

Tell him whether -- Ask him whether he wants to put the case over to get a lawyer or he wants to proceed now

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without one.

Which one?

What did he say?

MR. BIDOT: The same thing that I explained to you before.

ADM. LAW JUDGE: Okay.

MR. BIDOT: But he says that if the case is going to be given to him --

ADM. LAW JUDGE: Yeah, but tell him we don't know that.

Ask him -- Say to him, "Which way do you want it, with a lawyer or without a lawyer?"

MR. BIDOT: With a lawyer.

ADM. LAW JUDGE: With a lawyer?

MR. BIDOT: Yes.

ADM. LAW JUDGE: All right.

Now, today is --

Tell him this: That today happens to be June 20th.

All right?

I'm going to go off the record now, to consult what the rules are with regard to adjournments with regard to counsel.

But let me ask the witness something.

How long do you think it would take you to find out whether you can get a lawyer?

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MR. BIDOT: He wants the address of the Legal Aid Society for him to go over there.

ADM. LAW JUDGE: We'll -- We'll give you the address. Let's go off the record just --

(Discussion off the record.)

ADM. LAW JUDGE: Mr. Bidot, would you translate here now, please?

Would you tell him that I am now going to put off the hearing so that he can get a lawyer at the Legal Aid Society?

And tell him that I expect to hear from him, within one week from today, what efforts he has made to secure representation by Legal Aid Society or some other attorney.

Does he understand? One week?

MR. BIDOT: One week.

ADM. LAW JUDGE: And that will be by the close of Wednesday, June 27th.

And I want Legal Aid Society to contact my office, Miss Friedman.

Do you understand?

Did you put your name on there, Miss Friedman? Hearing Assistant?

And I want Legal Aid Society to contact my office as to what, if anything, they're going to do for you and what representation they're going to have for you.

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Say "yes" or "no."

You must go some time within the next week.

All right?

Then, Mr. Rojas, you will have Legal Aid Society call us.

Right.

Put the telephone -- our telephone number down.

Right.

And tell us what they're going to do.

Now, Mr. Rojas, your -- Your request was filed -- Tell him -- in September of 1972.

CLAIMANT: Look at the paper --

ADM. LAW JUDGE: No, you keep that back.

CLAIMANT: Okay, okay.

ADM. LAW JUDGE: Understand me?

CLAIMANT: Uh-huh.

ADM. LAW JUDGE: Don't shove those things at me.

Your request for a hearing before the Social Security Administration was filed in September of 1972.

CLAIMANT: Si.

ADM. LAW JUDGE: All right.

Now, we are trying to get you as quick a hearing as we can.

CLAIMANT: Uh-huh.

ADM. LAW JUDGE: And that's why I'm only giving you

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one week to have Legal Aid Society tell me what their plans are.

Now, tell him very carefully what I'm about to say to him.

MR. BIDOT: Very careful -- What?

ADM. LAW JUDGE: Very carefully. Translate very carefully what I say to him.

MR. BIDOT: Uh-huh.

ADM. LAW JUDGE: Mr. -- Is that what you had? A hernia operation?

CLAIMANT: Yes.

ADM. LAW JUDGE: All right.

Now, just keep quiet just for a moment. Just keep quiet for a moment.

Now, listen -- Just listen to me. See if you can listen to me.

Can you listen to me?

CLAIMANT: Yes, yes.

ADM. LAW JUDGE: If I don't hear from you in one week as to what Legal Aid is going to do -- I'm not saying that they're going to present your case.

But if I don't hear from you in one week, I may dismiss your request for hearing.

You understand? Understand me?

MR. BIDOT: Before the 27th.

ADM. LAW JUDGE: That's right.

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On or before the 27th.

In other words, at the close of the 27th.

CLAIMANT: Uh-huh. Okay.

ADM. LAW JUDGE: You understand?

CLAIMANT: Uh-huh.

ADM. LAW JUDGE: What did he ask you?

MR. BIDOT: He said to me that he has to go next week.

I say, "No, the 27th is going to be next week."

ADM. LAW JUDGE: That's right. You've got to go some time --

MR. BIDOT: Well, maybe.

He says, "Maybe tomorrow."

ADM. LAW JUDGE: All right.

Or tomorrow, or the next day, or Monday, or Tuesday.

MR. BIDOT: What train is -- he can get over there?

ADM. LAW JUDGE: What train?

Any train that'll take you to downtown Manhattan near Chambers (phonetic) Street. Chambers Street, downtown Manhattan, at 11 Park Place. 11 Park Place is where --

Tell him 11 Park Place is where Legal Aid Society is.

And you tell them you want a lawyer.

And you tell them that you want them, Legal Aid, to at least -- at least call Miss Friedman and tell Miss Friedman

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what they're going to do for you.

CLAIMANT: Uh-huh.

ADM. LAW JUDGE: In that way -- In that way, we will be able to set a new date for the hearing; and then we will be able to decide whether you get Social Security Benefits.

Now, do you understand that?

CLAIMANT: Okay.

ADM. LAW JUDGE: All right?

MR. BIDOT: He said "yes."

ADM. LAW JUDGE: The hearing is now closed for the purpose of permitting Mr. Gonzales-Rojas to secure legal representation.

And after we hear from him, on or before the close of business of June 27th, 1973, as to what success, if any, he's had in securing a lawyer, we will then be able to proceed with the matter.

If he has not received legal -- If he has not acquired legal representation, we will take such action as the case requires.

If he does, we may be able to schedule a new hearing or at least attempt to go down the road to discover what a reasonable date would be.

And if we don't hear from him, we will take such appropriate action as I've outlined, including the dismissal of the request for hearing.

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I want the record to show that I extend my thanks to Mr. Thomas Bidot, who has consented to come here at very short notice from the District Office of the Social Security Administration.

I want the record to show as well that I asked Mr. Lipton to indulge us and hope that he can appear again at some future hearing if it takes place in this matter, since he has familiarity with facts in the file.

And I would also let the record show that, although Mr. -- Although the claimant appeared here today on time, he neglected to bring with him a Spanish translator, which we asked him to do.

Let me ask you that, Mr. Gonzales-Rojas.

Why didn't you bring a person who speaks English and Spanish to the hearing, which was directed -- which was among the directions on the Notice of Hearing?

Would you ask him that?

MR. BIDOT: Next time he will bring one.

ADM. LAW JUDGE: All right.

Somebody who speaks good English and good Spanish.

CLAIMANT: Yes.

Some other people work.

ADM. LAW JUDGE: That's true. Correct.

Well, Mr. -- Mr. Bidot, you've done such a good job, I wonder if you could, since we have your name -- In case the

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claimant doesn't bring one and we need somebody on short notice, we'll ask for you.

Would that be all right with you?

MR. BIDOT: Okay. That would be all right.

ADM. LAW JUDGE: Very good.

Thank you very much.

MR. BIDOT: Thank you.

ADM. LAW JUDGE: The hearing is now adjourned until such time as we hear from Mr. Rojas, if at all.

HEARING ASSISTANT: The hearing was adjourned at 11:10 a.m.

(Hearing closed at 11:10 a.m., June 20, 1973.)

* * * * * *

C E R T I F I C A T I O N

I have read the foregoing and hereby certify that it is a true and complete transcription of the testimony recorded at the hearing held in the above case before Administrative Law Judge Robert W. Leiner.

Elwood F. Fox, Transcriber

Ace Federal Reporters, Inc.

DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
BUREAU OF HEARINGS AND APPEALS

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TRANSCRIPT

In the case of

Felix Rojas-Gonzales
(Claimant)

(Wage Earner) (Leave blank if same as above.)

Claim for

Period of Disability and
Disability Insurance Benefits

582-26-9405
(Social Security Number)

Hearing Held

at

Brooklyn, New York

on

September 24, 1973

APPEARANCES: Felix Rojas-Gonzales, Claimant
Eric Rundbaken, Esq., Claimant's Attorney
Letty Betancourt, Spanish Interpreter
Benjamin H. Lipton, Vocational Expert

Robert W. Leiner
ADMINISTRATIVE LAW JUDGE

Sally Friedman
HEARING ASSISTANT

Form HA 509
(3 71)

CR 4758
Case 15
FOX, E. F. 1

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C O N T E N T S

	ALJ	MR. RUNDBAKEN
Opening Statement by Adm. Law Judge		20
Felix Rojas-Gonzales, claimant	27 40 48 92	32
Benjamin H. Lipton, vocational expert	33 43 55 80 90	70

EXHIBITS	ID	EV
Exhibits 1 through 24	-0-	23
Exhibits 25, 26, and 27	-0-	95

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(The following is a transcript of the reconvened hearing held before Robert W. Leiner, Administrative Law Judge, Bureau of Hearings and Appeals, Social Security Administration, Department of Health, Education, and Welfare, on September 24, 1973, at Brooklyn, New York, in the case of Felix Rojas-Gonzales, claimant and wage earner, Social Security Account Number 582-26-9405. The claimant appeared in person and was represented by his attorney, Eric Rundbaken, Esq.)

(Hearing reconvened at 10:00 a.m., September 24, 1973.)

XXXXXXX

OPENING STATEMENT BY ADM. LAW JUDGE

ADM. LAW JUDGE: We are ready to proceed with this hearing, which is a hearing on the application of a claimant, Felix Rojas-Gonzales, the hearing having -- having been previously adjourned.

Does the record say that today is the 23rd or the 24th?

HEARING ASSISTANT: 24th.

ADM. LAW JUDGE: Because I thought it was the -- I thought that the record showed 23rd.

Yes, it is the 24th.

It's now about 10:00, or almost 10:00.

The hearing having previously --

(Tape becomes inaudible for approximately 20 seconds;

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recording of proceedings resumes with continuation of Adm. Law Judge's opening statement.)

ADM. LAW JUDGE: -- been timely received and issued so that you were given full opportunity to prepare your case?

MR. RUNDBAKEN: Yes, I am.

ADM. LAW JUDGE: Thank you.

Of course, I was referring to the Notice of Hearing which was issued out of here August 3rd, returnable today.

Is that what you had reference to when you answered me?

MR. RUNDBAKEN: Yes, that's correct.

ADM. LAW JUDGE: Thank you.

Now, the hearing, of course, is again in Room 1201 of the Bureau of Hearings and Appeals; and the appearances have been noted by my Hearing Assistant prior to the opening of the hearing -- or the re-opening of the hearing.

And I see that the purpose of the adjournment has been fulfilled; and Eric A. Rundbaken, of the Legal Aid Society represents the claimant.

Mr. Rundbaken, I ask you: Have you appeared on behalf of the claimant, Legal Aid Society, or otherwise in a Social Security matter prior to this?

MR. RUNDBAKEN: I have, yes.

ADM. LAW JUDGE: Then let me ask you: Do you -- Do you, on behalf of your client, waive a rather detailed

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statement of the nature of the proceeding in which we're now engaged?

MR. RUNDBAKEN: I would waive a detailed statement of it, yes.

ADM. LAW JUDGE: In other words, you do want some recorded statement of what we're engaged in here, then.

Is that right?

MR. RUNDBAKEN: Yes, some short statement.

ADM. LAW JUDGE: All right.

The purpose of this proceeding is to make sure that the claimant who has received unfavorable determinations below may present his case to a person who's had no previous contact with the case.

I'm an Administrative Law Judge of the Bureau of Hearings and Appeals of the Social Security Administration, and that Bureau is completely -- is a completely different branch of the Administration than that which considered the case up to this time.

I will make a new and completely independent decision based on the record of this hearing.

The decision will be based on all the documents received in evidence and all oral testimony.

Mr. Rundbaken, have you had a full opportunity to see the documents which have been marked for identification as Exhibits 1 through 24, inclusive?

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MR. RUNDBAKEN: Yes, I have.

ADM. LAW JUDGE: Do you have any objection?

MR. RUNDBAKEN: No, no objection.

ADM. LAW JUDGE: Thank you.

Hearing no objection, Exhibits 1 through 24 are received.

XXXXXXX (Exhibits 1 through 24 were received in evidence.)

ADM. LAW JUDGE: Off the record.

(Discussion off the record.)

ADM. LAW JUDGE: The hearing is informal. The rules of evidence such as used in court proceedings are not followed. I conduct the hearings informally.

When there is an attorney present, I have, among others, only a few rules.

The one which is observed strictissimus (phonetic), Mr. Rundbaken, is the rule against leading witnesses.

However, some leeway in the application of that rule will be given because we have a Spanish-speaking witness of less than substantial education.

However, the spirit of the rule will be invoked.

I want the witness's testimony, no matter how difficult (inaudible).

Is that clear, Mr. Rundbaken?

MR. RUNDBAKEN: Certainly.

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ADM. LAW JUDGE: Do you have any objection to that rule?

MR. RUNDBAKEN: I -- I could not have any.

ADM. LAW JUDGE: And since we have an attorney present, instead of the Administrative Law Judge conducting the case in chief inquiry, I'll certainly listen to your desires, if you want to present the case, Mr. Rundbaken, when the time comes.

What is your desire?

MR. RUNDBAKEN: Well, I believe that the evidence already in the file indicates clearly that there is some disability here -- the evidence which has been received.

So I believe it's not necessary for me to go through a complete history of the injury and the medical extent.

ADM. LAW JUDGE: I'll leave that to you. I'm not suggesting how you conduct your case.

I'm just saying that rather than have a -- some sort or a formal opening or other opening -- evidentiary opening by me, which takes place when there are no lawyers present, I would defer to you so that you can conduct your case your way.

If you have no preference in the matter, I'll just proceed.

MR. RUNDBAKEN: No, I -- I have no preference because I believe that my client's case is -- is so clear that I wish

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that you would satisfy yourself as to the nature of his injuries right now.

ADM. LAW JUDGE: Well, we'll proceed accordingly, then.

MR. RUNDBAKEN: Thank you.

ADM. LAW JUDGE: At the end of the case, Mr. Rundbaken, you can suggest to me what the finding should be and why the decision should be favorable to your client.

Do you intend, at this time, anyway -- and you're not bound -- Do you intend to submit a brief in this case?

MR. RUNDBAKEN: Yes, I would.

ADM. LAW JUDGE: All right. Good.

We'll decide on the matter of length of time for the submission after the close of the hearing, assuming it is closed today.

Testimony, of course, is taken under oath; and the questions are to be answered directly.

Now, the file shows the dates of the application and the other background papers. I won't go into that.

Miss Betancourt, would you raise your right hand, please?

I don't know if you were the translator here before, but in any case, I don't even know if you were sworn before. But we're going to swear you again, in any case.

Mr. Rojas-Gonzales --

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Miss Betancourt, would you have him raise his right hand, please?

Now, the allegation is that the claimant became disabled through an industrial accident on June 9th, 1971.

Is that your recollection, Mr. Rundbaken?

MR. RUNDBAKEN: That is correct.

ADM. LAW JUDGE: At this time, we ask you: Do you have any other further documentary medical or other evidence to submit?

MR. RUNDBAKEN: Not at this time.

I would request that the record remain open for a short period. I understand that Mr. Rojas-Gonzales has been seeing a new doctor, whose evidence we would like to submit.

ADM. LAW JUDGE: All right.

Well, as you probably know, his covered period does not end until March 31, 1975; and I see no reason at this time to quibble about a short keeping-open of the record.

Off the record.

(Discussion off the record.)

ADM. LAW JUDGE: I'm not going to go into the question of disability and what it means under the Social Security Act, on the assumption that Mr. Rundbaken knows what it is.

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(Miss LETTY BETANCOURT was duly sworn to act as interpreter.)

Whereupon,

FELIX ROJAS-GONZALES

the claimant herein, having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY ADM. LAW JUDGE:

Q Let me ask --

Miss Betancourt, would you ask Mr. Gonzales if he's had any work since 1971?

A No.

I have been out of work 2 years and 5 months. I am unable to work.

Q Has he looked for a job at all?

A No, because I do not feel in -- in condition to go look for a job.

ADM. LAW JUDGE: Mr. Rundbaken, do you have any exact knowledge as to when Workmen's Compensation ceased?

MR. RUNDBAKEN: I do not have any exact date on that. I believe it was --

ADM. LAW JUDGE: I know it was the spring of 1972.

MR. RUNDBAKEN: Right.

ADM. LAW JUDGE: Or I believe it was the spring of

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'72.

MR. RUNDBAKEN: I believe so, too.

I know that Mr. Gonzales has been receiving assistance from the Department of Social Services under the age and disabled category since then.

ADM. LAW JUDGE: Uh-huh.

Off the record.

(Discussion off the record.)

ADM. LAW JUDGE: It's my understanding from the record that -- Well, let me ask the witness.

BY ADM. LAW JUDGE:

Q Would you ask Mr. Rojas-Gonzales what he did when he was a packer of materials, what his job was like?

A I was a -- I was an operator in the pressing machine and I was pressing clothes.

Q Was he pressing clothes into bundles?

A I -- I had -- I put (inaudible) and then I made the bundles.

Q Did he ever --

A And they weighed quite a bit.

Q Now, was that before or after he was a furniture polisher?

A That was the last, when I got hurt. That job.

Q The bundling job?

All right.

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Now, in the -- When he was a -- working in the furniture factory as a polisher, did he ever have to lift anything?

A. Yes, because I felt fine and then I was strong.

Q. Well, what did -- What did you have to lift in the furniture factory?

A. I used to pick up the tables.

Q. And how much did the tables weigh?

A. I didn't weigh them; but those tables could weigh 30 pounds or 100 pounds, 200 pounds.

Q. Were they as big as the table that you're sitting on now?

A. Smaller.

Q. Okay.

Now --

A. There was big ones and small ones.

Q. Were any of them half as big as this table?

A. Yes. Half the size and smaller. Round.

Q. How often did you have to lift them?

A. I -- When I was ready to work, I used to have to pick them up from the floor and put them on top of the table to polish them.

Q. All right.

How many times would you do that a day?

A. Well, almost all day.

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Q Now, when you were a machine operator in bundling, did you ever have to lift anything?

A Yes, I did.

Q What did you have to lift?

A I used to pick up -- I used to pick up these bundles that weighed 400 or 500 pounds with a truck.

Q Now, how much did you lift up with your own hands? Never mind the truck.

A I could lift 150 pounds with my hands.

Q All right.

Now, ask him to listen to my question very carefully. I didn't ask you how much you could lift up.

I asked you how much, on that job as a bundler, you did lift up.

A Well, the boss used to tell me to put the packages from one side to the other --

Q I didn't ask --

A I -- I could lift 100 pounds.

Q Now, you didn't answer my question.

How heavy were the bundles you did lift up, in fact, on that job?

A They used to weigh about 100 pounds.

The machine used to press packages of 300 pounds.

Q What did you lift up that was 100 pounds?

A The packages the -- the machine made, clothing.

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Q I thought they were 300 pounds.

A I could lift 100 pounds, but the machine used to make up to 300.

Q What did you lift that was 100 pounds?

A The packages the machine made and the boxes. A box they used to make and tell me to make them up, by weight of 100 pounds and even 50 pounds.

Q Were all the -- Were all the bundles made by the machine 300 pounds?

A Yes.

And 200 also.

Q How about 100?

A Yes. A lot of them were 100 pounds.

Q Did you lift the 100-pound bales?

A Yes. I did it because I was strong, and I was healthy.

Q And did you, by yourself, lift the 200-pound bales?

A No, I couldn't. No, I couldn't lift them.

But I used to take them out of the machine with a truck.

Q I see.

So the only -- So, is it a fact that you lifted the 100-pound bales; but anything heavier, you used the truck?

A Yes, with a truck. With a hand-truck.

Q How about the 100-pound bundles?

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Did you lift them by yourself?

A. Yes. I used to pick up like this.

My boss would tell me to put it down, tell me to be like a stevedore.

ADM. LAW JUDGE: Do you have any further questions of him in this area, Mr. Rundbaken?

MR. RUNDBAKEN: Yes, I have one or two.

XXXXXXX

EXAMINATION

BY MR. RUNDBAKEN:

Q. Were there any packages of less than 100 pounds?

Were there any packages of 50 pounds?

A. Sometimes there were maybe 50.

Q. Yeah.

And --

A. Sometimes 100, 300. It depends.

(Claimant excused.)

ADM. LAW JUDGE: Mr. Lipton, would you raise your right hand, please?

Now, I want to go off the record so we can -- all of you on tape. No use getting a record and then no tape.

Would you do that, please, Miss Friedman?

(Off the record.)

ADM. LAW JUDGE: I believe they do. Yes, they do.

This resume appears as Exhibit 23.

Now, Mr. Lipton, do you want to add anything to that

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before I permit an inquiry by Mr. Rundbaken?

Mr. Rundbaken, you may inquire if you would like.

MR. RUNDBAKEN: No, I have no wish to. I will stipulate to his expertise in the area of vocational --

ADM. LAW JUDGE: Very good.

May the record show that Counsel for the claimant stipulated and consented to Mr. Lipton's qualifications as a vocational expert.

Off the record. We'll change the tape.

(Off the record.)

ADM. LAW JUDGE: On the record.

Whereupon,

BENJAMIN H. LIPTON

was called as a witness and, having been first duly sworn, was examined and testified as follows:

XXXXXXX

EXAMINATION

BY ADM. LAW JUDGE:

Q Mr. Lipton, have you -- As a matter of fact, you were here, were you not, at the opening of this hearing some weeks ago. Were you not?

A Yes, I was.

Q All right.

And you -- Were you here at all times that the claimant was here at that time and testified?

A Yes, I was.

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Q And you were here at this entire hearing.

Is that right?

A Yes.

Q You are under contract with the Social Security Administration.

Is that right?

A Yes, I am.

Q And you receive money under the contract for your appearances?

A Yes, I do.

Q Do you feel that your payment for your services in any way obligates you to testify in behalf of the Administration's positions below, finding no disability on behalf of the claimant?

A No, I do not.

Q You realize it's my responsibility to determine whether the claimant is disabled?

Is that your understanding?

A Yes, I do.

ADM. LAW JUDGE: I want to go off the record just for a moment.

(Discussion off the record.)

BY ADM. LAW JUDGE:

Q Mr. Lipton, have you had any contact with me regarding this case, prior to the opening of the hearing this

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morning?

A. No, I have not.

Q. Or at any other time, other than your prior appearance?

A. No, I have not.

Q. We haven't discussed the case?

A. No, we have not.

Q. Now, Mr. Lipton, I'm going to ask you to testify as to what jobs, if any, claimant's qualified to perform, by virtue of his age, education, past training, and experience, and based upon certain assumptions of fact concerning the evidence which I will tell you about.

And I would like you to answer what jobs, if any, in the national economy this claimant can perform.

Is that clear?

A. Yes.

Q. Now, have you received the exhibits in this case prior to the opening?

A. Yes. At the last -- Prior to the last meeting, I did; and --

Q. I see.

A. -- returned them at that time.

Q. You did.

Have you gotten them again?

A. Well --

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Q Have you seen them since?

A I guess there have been some changes.

Q Well, if you have not -- There have not been any changes, but I see that I have them when you returned them.

So we're going to go off the record; but, now, we're going to stay on the record just while I make this statement so that Mr. Lipton can refresh his recollection of the facts.

And I want to go on the record again in just a minute.

As I'm handing him the exhibits --

Mr. Lipton, prior to the last opening, did you, in fact, have an opportunity to see those exhibits?

A Yes, I have.

Q And did you read them at that time?

A Yes, I have.

ADM. LAW JUDGE: All right.

Now, we're going to give you a short time to go off the record and refresh your recollection.

Off the record.

(Off the record.)

BY ADM. LAW JUDGE:

Q Mr. Lipton, have you had an opportunity to examine the -- the documents of evidence, 1 through 24, so that your recollection of them and of the facts therein --

A Yes, I have.

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Q -- is refreshed?

A Yes.

Q All right.

Based on your review of that documentary evidence and your understanding of the testimony which you've heard in both -- Well, I guess there was no testimony the first time -- the testimony you've heard at this proceeding --

Could you briefly assess or summariz the claimant's background and experience and any other factors that you would consider from a vocational standpoint as being his occupation -- occupationally significant characteristics?

And what are his transferable, if any?

A Yes, I have.

Q And would you do so?

Thank you.

A Well, on the basis of -- of the evidence in the record and some -- and the medical report by Dr. Nelson (phonetic), which indicated that he could do most everything with the exception of lifting over 30 pounds, and avoid repetitive -- repetitive bending and stooping, but no impairment of sitting, standing, or walking.

Q Now, I'm going to give you the -- I think I've misled you a little bit. Perhaps my question did.

I'll give you the underpinnings -- the factual underpinnings of what he can do and he can't do later on.

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What I wanted is a preliminary assessment of who he is, what he's done, and what factors went into his functioning as an economic unit prior to his impairment, and what we can expect, if he had no impairment, his skills are.

A. Well, he was an operator of pressing clothes before, and then he's also a furniture polisher.

However, both in the areas these skill that -- the innate skill and the skills which he has can be fit into areas such as light assembly work and things of this nature, and many of the other types of jobs that -- like is listed in the -- in the -- in your -- in the evidence as hand-bander and label-removers -- remover.

Q. Well, I haven't given you the -- I haven't really given you the facts --

A. I know.

But what I'm doing is using -- utilizing he has the ability to use his eye/hand coordination.

Q. Well, that's what I wanted to hear.

A. He has --

Q. In other words, he was -- He was engaged as an -- My understanding of the facts is, and you correct me if I'm wrong -- vocational standpoint.

He was an agricultural laborer when he was in Puerto Rico.

And then he became a furniture polisher or really a

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furniture worker, part of which his duties was to polish the furniture.

And then he became engaged in a bundler operation of mattresses and clothes.

All of which (inaudible) on his lifting of the weights with the tables run from 30 to 100 pounds. The bundles weigh about 100 pounds.

That's -- That's what I deem from the facts.

ADM. LAW JUDGE: Is that what you glean, Mr. Rundbaken?

MR. RUNDBAKEN: Yes. The -- The documentary evidence indicates 50 to 100 pounds.

ADM. LAW JUDGE: Right.

BY ADM. LAW JUDGE:

Q And that's such -- Since it's repetitive, that's pretty heavy work.

Wouldn't you -- Wouldn't you agree to that --

A Yes, I would.

Q -- Mr. Lipton?

And -- And the record shows he's had no other training.

Is that right?

A That's correct.

Q So would you -- Would you conclude from that, as I have subject to your testimony and any other testimony that

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Mr. Rundbaken will introduce, that he's been engaged in heavy work during his adult life?

A That's correct.

Q All right.

Now, if that's correct -- I've also noticed that he's had an education of 2 years. I think that's 2 years in Puerto Rico.

Whereupon,

FELIX ROJAS-GONZALES

the claimant herein, having been previously duly sworn, was examined and testified further as follows:

EXAMINATION

BY ADM. LAW JUDGE:

Q Mr. Claimant, did you have 2 years of schooling in Puerto Rico?

A Yes.

Q Well, first, in order that we have some orderly record here, would you ask him the question in Spanish?

A 2 years only.

Q Any more than that?

A No.

I always worked.

Q Can you read?

Can you read English?

A No.

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Q Can you read Spanish?

A Yes.

Q Well? Can you read it well?

A Yes, because I have to wear glasses to -- to read.

Q Do you read the newspapers or books?

A Yes.

Q Have you ever worked on any machinery in -- in your days?

A Yes. I worked as an operator.

Q But that -- That was just like pushing a button, wasn't it?

Or was it something more?

A Yes, a button.

Q Now, what did you do in the furniture factory?

A I was polishing the top of the tables with a sponge. I used to also have to scrub them. Scrub the wood.

Q Did you -- Did you assemble any of the furniture?

A Yes.

Q In other words, you took small pieces of wood or the pieces of wood that composed the table and put them together and made the table?

In Spanish, please.

A Yes.

Q Now, were the pieces of wood that you lifted, were they heavy or were they light?

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A. Regular.

Q. What is "regular"?

How much did they weigh?

A. Could weigh about 10 or 15 pounds.

Q. Is that the legs of the table?

A. Yes.

Q. How about the top of the table?

How much did that weigh?

A. Well, I don't know very well.

But they could weigh, some of them, 10 pounds, some of them, 15 pounds (inaudible).

Q. All right.

And how did you put the tables together?

With -- By what means?

A. The only thing I did was sand them.

Somebody else put the tables together.

Q. I see.

A. All I did was polish and sand them.

Q. Did you sand them with a machine?

A. No.

Hand.

Q. Did you --

A. There was another fellow that used to do it by machine, but I did it by hand.

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Q. Did you polish them by hand or by machine?

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A It was some kind of liquid.

Q Well, did you use a machine or by hand?

A By hand. Everything by hand.

I'm the only one did it.

(Claimant excused.)

Whereupon,

BENJAMIN H. LIPTON

was called as a witness and, having been previously duly sworn, was examined and testified further as follows:

XXXXXXX EXAMINATION

BY ADM. LAW JUDGE:

Q Mr. Lipton?

A Yes.

Q Would you tell us what -- Well, would you classify from what you've seen, and I think you've already answered it, claimant's work as a furniture polisher to be heavy, light, or sedentary work?

A Well, it was heavy work.

Q And certainly his agricultural and bundling operation --

A That would be --

Q -- as he described it, would be heavy as well.

Is that right?

A Yes, sir.

Q I've used the word "light," and I've used the word

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"sedentary," and I've used the word "heavy."

Now, would you -- I don't know if you know what I mean by "light" and "heavy" and "sedentary" or not.

I don't know if you knew -- I know what you mean, but if I told you to define the word "light" and then "heavy" and "sedentary" and then "light," would you be able to give me a definition so that we could understand each other?

A. I believe so.

Sedentary position of a job would be one in which he is seated almost all the time.

And being a light/sedentary job, doing the light work, would be anywheres from about half a pound to about 5 to 10 pounds or 15 pounds, probably, at tops.

Q. And is that "light" or is that "sedentary" you've just defined?

A. I've defined "sedentary" and I've defined "light" work.

The component parts could be anywheres from maybe an ounce up to a maximum of complete components to 10 or 15.

Q. Is that both for light and sedentary?

A. Yes.

Q. Now, what is the difference between sedentary and light, if any?

Sedentary and light work?

A. Well, sedentary's seated.

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Q And what is light work?

A Light work is anywhere between one ounce, working with components or things of one ounce to 15 to 20 pounds.

Q In other words, is any light work done which is not sedentary?

A Yes.

Q In other words, you'd be standing some -- much of the time?

A Correct.

Q So would that be a distinction between light and sedentary?

A I've given the distinctions between light and sedentary.

Q Well, you did it in terms of the fact that sedentary is done seated. You -- You've given the -- the weights at 5 to 10 pounds, roughly.

A Right.

Q But what I'm inquiring about is: Are there people who do light work who seldom sit down?

A There are, yes.

Q I see.

So that would be a distinction, I take it, between sedentary work and light work?

You said this, I believe.

A Well --

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Q Sedentary work is where people sit down.

A Well, I -- I -- I -- I was referring that I was stating that light/sedentary work could combine a seated person seated, and work within the areas of which I spoke about, from maybe one ounce up to the 15 pounds doing things with his hands.

And the -- The light work could be the same thing, but could be done standing or any other position -- not seated.

Q That's right.

A Yes.

Q That's my experience, and --

A Yes.

Q -- that's why I was fishing for the distinction.

A All right.

Q If any.

A Right.

Q Where did you get these definitions from?

You make them up yourself?

A Well, it's like they're probably not stated exactly so, but these are definitions based on my experience that I've referred to.

Q And any other place that you get these definitions, where we can find definitions of light and sedentary --

A Well, the Dictionary of Occupational Titles would have it.

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Q And --

A -- (inaudible) and other books would -- would have it.

Q Is the definition in the Dictionary of Occupational Titles substantially that which you've given us?

A I'm not sure at the moment, but I think it's close to that.

Q What is the Dictionary of Occupational Titles?

You don't have to get it; just tell me what it is.

A Well, it's a book. It's a book -- set of books -- the set of volumes of books tht are provided for -- by the Government, which have all the occupational areas in our economy listed, types of work that they have, and the breakdown of whether it's light, sedentary, heavy, and many other things which are listed in the (inaudible).

Q Now, Mr. Lipton, would you assume with me that a claimant was born in June of 1921, is Spanish-speaking almost entirely, has a 2nd-grade Spanish education, has a background of agricultural and otherwise heavy work.

Would you further assume with me that he cannot read English and that, in June of 1971, he fell approximately 25 feet on his back and has the following problems: His compress on fracture of the spine, which doesn't permit him to bend; he has headaches from time to time.

Now, I want to stop my recitation for a moment.

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(Witness excused.)

Whereupon,

FELIX ROJAS-GONZALES

the claimant herein, having been previously duly sworn, was examined and testified further as follows:

XXXXXXX

EXAMINATION

BY ADM. LAW JUDGE:

Q Mr. Rojas-Gonzales, do you feel physically worse now than you did when you -- after the accident, or better?

No, no. I don't want to -- I just say, "Do you feel worse or better?"

(Tape becomes inaudible for approximately 20 seconds; recording of proceedings resumes with interpreter and claimant conversing in Spanish.)

A Because -- I cannot go back to work because I have lost the strength of my arms and also the backbone. My backbone is broken.

Q Now --

A 2 broken bones.

Q So it's not a question of pain, is it?

A Yes. I have a lot of pain.

I have taken -- I have taken --

Q Where is your -- Ask him where is his pain?

A The pain is closer to my back, higher and lower. And then it crawls all the way down, and it goes to my arms.

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Q Right.

Now, is that the same pain that you had after the accident?

A Yes. It's the same, the same.

Q I see. All right.

I haven't asked you any further -- I --

Do you get pain when you sit?

Just "yes" or "no."

A Yes.

Q Do you have pain when you stand up?

Do you have pain --

A No.

Q -- when you sit down?

A Yes.

Q Do you have pain when you walk?

A Always, always.

I cannot walk fast.

Q How -- How far can you walk these days?

A I have to walk very slow, very slow.

About 3 blocks.

Q Can you climb steps?

A I can climb steps, but they have to be very low. Not high.

Q How many steps can you climb?

A About 6.

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Q I see.

Does it hurt when you lie down?

A Yes. Yes.

The pain never goes away. I always, always have it.

Q How much -- How much weight did you lose, if any, between the time that you got the accident and now?

A When I come out of the hospital, I weighed 100 -- I -- When I come out of the hospital, I was weighing 120 pounds. And now I weigh between 130, 135.

Q I see.

So the accident, in effect, has caused you to gain weight.

Is that right?

MR. RUNDBAKEN: I -- I would object to that question. I believe it's -- It's badly framed, if I may state that.

ADM. LAW JUDGE: What's your objection?

MR. RUNDBAKEN: I think that it's a misleading question because when he came out of the hospital was already after he was injured. Perhaps the proper question should be before he was injured and now.

ADM. LAW JUDGE: Very good.

BY ADM. LAW JUDGE:

Q How much did you weigh before -- I'll withdraw the question and strike the answer.

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How much did you weigh before the accident?

A. About 140.

Q. I see.

And how much did you weigh after the accident when you got out of the hospital?

A. When I come out of the hospital, 120 pounds.

Q. And how much do you weigh now?

A. 135.

ADM. LAW JUDGE: Just for your information, Mr. Rundbaken, I disagree with you. I did originally agree with you; but on second thought, it's the question of what happened since the accident, not what he was before.

I don't care if he weighed 190 pounds before the accident. It's what has happened since the accident which I think is particularly germane.

But in any case, the -- the matter is now of record.

I take it you have no -- no -- no objections to the questions and answers as framed and answered, do you?

MR. RUNDBAKEN: No, not so far.

I -- I would like to add a couple of questions, if it's --

ADM. LAW JUDGE: Before I resume the hypothetical questions --

MR. RUNDBAKEN: Right.

ADM. LAW JUDGE: -- of Mr. Lipton?

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Certainly.

MR. RUNDBAKEN: Whenever you -- Whenever you are finished.

ADM. LAW JUDGE: I was just going to ask him --

BY ADM. LAW JUDGE:

Q What -- What medicines are you taking now, if any?

A The -- The pills that the doctor gave me for my pain.

Q And what -- Which doctor was that?

A It's there.

I have no doctor now.

ADM. LAW JUDGE: Would -- Would you have -- Miss Betancourt, would you read off the name of his new doctor, please?

MR. RUNDBAKEN: What new doctor?

MISS BETANCOURT: This is the new doctor?

CLAIMANT: Si.

ADM. LAW JUDGE: And his address, telephone number.

MISS BETANCOURT: Lawrence Springer (phonetic), M. D., 204 Linden (phonetic) Boulevard, near Nostrain (phonetic) Avenue, Brooklyn, New York 11226.

The phone number's Buckminster 70030.

ADM. LAW JUDGE: And that's in Brooklyn?

And what was the number?

112 -- What was the zip code there?

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MISS BETANCOURT: 11226.

ADM. LAW JUDGE: All right.

MISS BETANCOURT (FOR CLAIMANT): And he send me -- I had some X-rays taken on the 12th, and he sent me to this doctor to have some X-rays, Wednesday, September 26, 1973, at 1:30 p.m.

Michael Berman (phonetic), M. D., 14 East 75th Street, New York, New York 10021.

Phone number's Rylander (phonetic) 41455.

ADM. LAW JUDGE: And when -- When is he going to have that done?

MR. RUNDBAKEN: On the 26th, Tuesday.

MISS BETANCOURT: Wednesday, September 26, 1973, at 1:30 p.m.

ADM. LAW JUDGE: All right.

Now, Mr. Rundbaken, I'm going to place on you the obligation to secure from Dr. Springer the results, not only of the X-rays, which are only evidentiary and incidental, but the results of any physical examination which have beed heretofore conducted upon the person of the claimant and the results thereof and the prognosis.

MR. RUNDBAKEN: That's -- That is what I requested at the beginning of the hearing the time -- the extension of time for.

ADM. LAW JUDGE: All right. All right.

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Now, how much time do you think you would need for that?

MR. RUNDBAKEN: Well, I would request it today, depending on how long the doctor will take.

I -- I -- I believe 2 weeks would be a --

ADM. LAW JUDGE: All right.

MR. RUNDBAKEN: -- an outside limit.

ADM. LAW JUDGE: Would you make a note of that, Miss Friedman, that 2 weeks from today, received in this office, unless there has been an application for further extensions of time, Mr. Rundbaken will submit Dr. Springer's examination.

Do you know whether Doctor -- Do you know, Mr. Rundbaken, if Dr. Springer is an orthopedic surgeon?

MR. RUNDBAKEN: I do not.

ADM. LAW JUDGE: Well, we'll discover that shortly.

Well, then, the questions I'm going to put to Mr. Lipton, the following questions, are in a sense subject to receipt of further information received.

Of course, if the information received, Mr. Lipton, would be medically significant, favorable to the claimant, I may not submit any questions to you -- statements -- further statements and facts to you.

On the other hand, I might change the facts and ask you whether it would be so significant as to change your

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testimony.

Whereupon,

BENJAMIN H. LIPTON

was called as a witness and, having been previously duly sworn, was examined and testified further as follows:

XXXXXXX

EXAMINATION

BY ADM. LAW JUDGE:

Q But I want to assume further that the claimant can only climb 5 or 6 steps, walk 3 blocks, can't bend over, can't lift more than 10 or 15 pounds.

Do you think he could go back to any of his old jobs or anything directly associated therewith, Mr. Lipton?

A On the basis of your question, which could not include his statement, of course --

Q What do you mean, "would not include his statement"?

A Well, I wanted to preface that remark so that I understand you and you understand me.

The basis being on what you just asked me, which would indicate that he could lift to this -- lift up to 15 pounds and he couldn't stoop or bend, did not indicate, however, that if he had severe pain, et cetera.

Q Yes, I -- I'm sorry. You're quite right.

That he had severe pain in standing, sitting, walking, and even reclining.

A He has had severe pain, which is very difficult for

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any man, then, to continue in any type of employment. 90

My answer would be that he's not employable.

Q Now, would you assume -- assume with me that, in a further hypothetical question, the claimant -- And I just want to refresh everybody's recollection and direct everybody's attention to Exhibit 20 in evidence, Mr. Rundbaken, which is the report of Dr. Nelson.

MR. RUNDBAKEN: I do not have -- I have it here, yes.

ADM. LAW JUDGE: Well, I'll let you see it on any occasion.

MR. RUNDBAKEN: I have my notes on that.

ADM. LAW JUDGE: All right, sir.

BY ADM. LAW JUDGE:

Q Would you assume that the claimant is able to sit for half an hour, stand for 3 hours, walks -- walk approximately 4 blocks, unable to lift above 10 pounds in weight but is able to use other transportation, that he can bend over forward 55 degrees, the angle being that measured from the upright position whereby 90 degrees would be at an angle where his torso and head would be parallel to the ground.

All right?

So he can bend to 55 degrees where 90 degrees would be what I just told you. He can bend sideways 20 degrees each way.

All right.

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Do you have that?

A I do.

Q And he has full range of motion of the shoulders, elbows, and wrists, good grasp of the hands.

Now, I don't know whether I said this, but when I said that -- I said 10 pounds. I meant that he can lift up to 30 pounds, although he cannot do it repetitively; and he cannot do a job which would require repetitive bending and stooping -- or stooping.

But he can sit, stand, or walk within the limitations I've given you; and he has no impairment of either fine or gross manipulations of the hands.

All right.

A All right.

Q Now, let -- Now, just a moment. Just a moment.

A Sorry.

Q And from time to time, since the claimant is evidencing a desire to stand from time to time, I'm going to put that in as a condition of fact and say that once an hour he may stand for a short period.

Now, assuming that state of facts, the fact of his 2nd-grade Spanish education, as I've said before, his literacy, as stated before, his age, as I told you, he was born in June of 1921 -- Are there any jobs in the New York City metropolitan area reachable by public transportation that he could

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perform?

A My answer is "yes," although I -- My personal opinion is that, although the claimant has -- speaks Spanish, I believe I find that he's bright and alert.

Bright in the sense that he answers his questions and provides answers very well, which indicates to me that, in my opinion, although he's only had 2 years of education, he can be reached with people speaking Spanish and probably, in some instances, very small amounts of English.

Q Excuse me.

A The area --

Q Excuse me.

I happen to agree with you that he is capable of understanding --

A I want to --

Q -- some modest English.

A All right.

Q But I did not give you that as a given fact.

A I understand that.

Q So I want you to now strike from your inclusion of facts his ability to communicate in English whatsoever.

Is that clear, Mr. Lipton?

A Yes, it is.

Q Very good.

A On the basis of -- of your question, I would say

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"yes," there are selected jobs in which he could fit into the economy.

In the city of New York, we assemble small component parts of all types of durable goods, in the electronical (phonetic), mechanical, toys, et cetera.

Q No, I don't want to hear the "et cetera."

Electronics?

A All right.

Q Electronics industry?

A Yes.

Q Is that what you said?

Toys?

A Yes.

Q What else?

A Mechanical objects.

Q What are mechanical objects?

A Well, there are 1,600 various -- The -- The literature cites 1,600 separate sedentary and light and skilled types of jobs, which they are making and assembling components.

Q Mechanical components, would you call them?

A Some mechanical, some electronical, some neither of either.

Q Wait a minute.

As I understand it, you say that he can assemble things, small parts of the electronics industry?

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A. Right. Correct.

Q. And then you said "toys."

Is that right?

A. Yes, yes.

Q. Now, just give me separate classifications of what he -- of what types of jobs, because I -- I have as a separate classification here "mechanical assemblies."

And, you know, "mechanical" is so general that -- because you included the word "electronics" in it.

A. Well, I'm -- I'm referring to the host of jobs that are available in our economy in the city of New York.

Q. Right.

A. And in the assembly area, we have these small -- small -- Small things that can be done are available in our economy, where they include a great host of the jobs that may be listed in the DLT (phonetic) and not just pulled out one right after the other.

Listings in the -- in the -- in the document the previous referral talked about within the scope of which I just said.

They spoke about the hand-bander on perhaps paper goods and things of that nature, where you seat them to do that type of work.

They spoke about a label remover, which is a job of certain types which they listed in the -- in the -- in the DLB.

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But I am also talking about the jobs that do not require more than perhaps from one day to one week or two weeks of training to be entered into the job, in which you have in the toys of various -- depending on the manufacturer that you come into.

And which you have in electronics, which requires perhaps putting 2 wires together, if you have good eye/hand dexterity, which can be taught in a short period of time.

And some of the other areas which then permits him to do it because -- And that is where the type of thing that they're doing would not exceed, even total, more than 20 to 30 pounds, as you indicated in your question.

Q Very good.

Now, did any of these jobs require lifting of only a few ounces to a few pounds?

A Some of them would be because there are certain jobs that are available; and these change from time to time as manufacturers change their work habits, depending upon the kind of jobs that get provided -- provide -- they are able to obtain, whether it be even government or industry.

Q So that you --

A From smaller parts to larger parts.

Q Your -- Your answer assumes lifting from time to time, but not repetitively, up to 30 pounds.

Is that right?

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A. No. But the maximum of that --

Q. Maximum.

A. -- at any time. That's right.

Q. Right.

And will you say most of them of much less than 30 pounds?

A. Oh, yes.

Q. And you call them the "assembly of small parts"?

A. Correct.

Q. As a classification?

A. Or -- Or you -- Yes.

Q. And that includes the electronics business and the toy business and so forth?

A. Right.

Q. All right.

How many jobs would you say exist in the city of New York for the assembly of these small jobs -- small parts?

A. Well, the -- The -- The statistics provided by the Labor Department indicate in a projection about 30,000 jobs so involved in the city of New York.

Q. And other classifications other than assembly of small parts?

A. You mean any other job -- job --

Q. Descriptions.

A. Descriptions?

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No, I believe, on the basis of the question asked, I have given enough of an area which would provide him with a job that can be -- can be -- he'd work at.

Q Well you may have.

And 30,000 jobs, by the way, what date --

As of what date was the 30,000?

A Well, that's the -- The statistics do not provide an actual date, except this is a projection that I have made on the interim reports, which are in the -- in the manpower requirements interim projections, '68 to 1980.

And this would place us in about this tally.

Q Who made this report?

A Department of Labor.

Lewis L. Levine (phonetic) Industrial Commission.

Q And when did it come out?

A It came out in July, 1971.

Q So what you've done is, as they say, "extrapolate" from that report?

A Interpolate it, yes. Yes.

Q And have you done so on the basis of your own experience?

A That's correct.

Q Have you seen any of these jobs called the "assembly of small parts"?

A Yes, I have.

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Q How often do you --

A There are some at my own school.

Q Your own what?

A I have some at my own school.

Q What school is that?

A Joseph Bulova School of Watchmaking.

This is additional work above and beyond the training which is available to people who want to work, for students who need extra money.

Q Now, it's true that you've given us a classification called -- or at least you testified as to a classification called "assembly of small parts," and you've said there are 30,000 jobs in the city of New York.

Is that right?

A That's right.

Q I just want to make sure I understand you.

A Yes.

Q Now, are there any other types of jobs within the same hypothetical reference of facts I've given you that the claimant could perform, other than assembly of small parts?

A Yes.

If I might qualify this in saying that if they're selected placement jobs where, for instance, the watchman job or an unarmed guard.

If they can direct him in a Spanish area that it

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were building, et cetera, that -- where there's a building available where he could communicate to them.

This requires the unarmed guard or the person who's a watchman is usually -- Watchman job, usually, it's a sedentary job within a specific area.

Q Well, just as you pointed out, however, what limitation on his being a guard or a watchman would it be that he can't speak English?

A Well, that's why I mentioned that in a Spanish-speaking area.

Q Any other --

A But there are -- There are, for instance, and this -- And you must -- It would be my -- in my opinion that also an individual could fit if you find a selected placement in the host of jobs that are light janitorial work.

And I'm -- And I -- And I accentuate the word "light" because it -- There are such jobs available, but within the whole scope of the janitorial --

Q Well, give me a classification of "light janitorial work."

What could he do?

A Well, he could move a vacuum cleaner. He could dust. He could occasionally, in doing 6 or 7 offices, empty a light wastepaper basket.

I --

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Q Are there such jobs in -- in the metropolitan area?

A Yes.

Q How many would you say there are?

A Oh, I would say about -- This is a guesstimate (phonetic).

No -- No such jobs are listed in actuality; but in the statistics provided, I would say about 3,000 to 5,000 in the city of New York.

Q Well, when you use words like "guesstimate," I'm sure Mr. Rundbaken's hackles raise. I know mine do.

Are --

A Unfortunately, I have no -- no actual -- There are no facts that can actually bring that --

When I say "light," you see, in our -- In our statistics available, you have only a scope of jobs includes everything, from the light work to the heavy work. And there is no breakdown as far as I know, in my own opinion.

Q Well, you've just -- You've just set off the limitation of the usefulness of the facts.

A All right.

Q You know?

What happens if there are only 150 light and 4,900 or 800 heavy? Then we'd be in trouble.

So far you've given us the assembly of small parts.

You don't know how many watchmen are used in -- or

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guards used in Spanish-speaking areas, do you?

A No, I do not.

Q And you don't know how many of the janitorial work is really light, do you?

Or do you?

A I've seen -- I've seen light -- I have persons do such jobs as at school.

Q Right.

But even if there were 50 that you knew about, you couldn't give us the statistics?

A No, I cannot.

Q Now, how about some other classifications?

Do you have any others besides --

A I think -- I think I would state what I've already stated.

Q That's about all of it?

I -- When you shake your head like that, Mr. Lipton, you're not getting on the record.

A Yes, I would -- I would say that I would gather within the area that I gave, I think there is sufficient work in the economy for him to be able to do that type of work.

ADM. LAW JUDGE: All right.

I'm ready to rule that the only record jobs that I'm going to rely on in this classification are the first ones that you've mentioned.

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I'm not saying that he can perform them on the facts. I'm saying "if he can perform them."

I'm going to exclude watchmen, guards, and light janitorial, not because there are no such jobs but because the record evidence is not so substantial as to tell us how many. And therefore I could not make a proper finding.

We're going to go off the record to change the tape, and then you'll be able to inquire. I know you're anxious --

MR. RUNDBAKEN: Thank you.

ADM. LAW JUDGE: -- Mr. Rundbaken.

Off the record.

(Off the record.)

ADM. LAW JUDGE: Mr. Rundbaken, do you have any questions, either --

Or first, I would like you to ask any supporting questions of the witness -- of the claimant.

MR. RUNDBAKEN: Of the claimant.

ADM. LAW JUDGE: I shouldn't have said "witness." Of the claimant.

If you have any prior to examining Mr. Lipton, would you proceed that way?

MR. RUNDBAKEN: I believe I would like to ask a few questions of Mr. Lipton first, just to narrow the field a little bit.

ADM. LAW JUDGE: If you desire to, certainly.

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EXAMINATION

BY MR. RUNDBAKEN:

Q Mr. Lipman (phonetic), there is no evidence in the record, as you --

ADM. LAW JUDGE: His name is "Lipton."

MR. RUNDBAKEN: Lipton. Excuse me.

BY MR. RUNDBAKEN:

Q There is no evidence in the record, as you have examined it, of the claimant ever having done any work assembling small component parts, is there?

A No.

Q Do some of these jobs require fine hand movements?

A They vary from fine to gross.

Q Approximately how many jobs involving gross hand movements would you say there were in the city of New York, that you know of?

A Oh, I would say approximately half of the area of the 30,000 would be --

Depends on what you define "gross" as.

Q Well --

A Fine -- Fine or gross, you see -- The "gross" would be -- "Fine" you're talking about very fine -- the ability to have very high -- utilizing very fine eye/hand coordination and work with very small units.

Q Uh-huh.

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A The other, "gross" -- Gross units would be anything above that.

ADM. LAW JUDGE: So -- I didn't understand -- I understood the answer, but I didn't get the very preliminary figures about what percentage of the 30,000 would be gross.

MR. LIPTON: I estimate about approximately half.

ADM. LAW JUDGE: Half would be gross, and half would be fine.

MR. LIPTON: Right.

ADM. LAW JUDGE: And that's subject to the limitation that we don't know exactly what "gross" or "fine" means.

Is that right?

MR. LIPTON: Yes, your Honor.

ADM. LAW JUDGE: Proceed, Mr. Rundbaken.

At least at this stage, we don't know what it means.

MR. RUNDBAKEN: That's right.

BY MR. RUNDBAKEN:

Q There is absolutely no indication in the record of any ability to handle fine movements of the claimant, is there?

ADM. LAW JUDGE: I'm going to -- I'm going to have to ask you to -- I'm going to sustain any objection on my own to the form of the question because we've now elicited that unless we have some groundwork about fine and gross, we would have subjective standards.

That's why I attempted to elicit from Mr. Lipton,

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Mr. Rundbaken, the question of what he meant by "light" and "sedentary," which are also rather ephemeral concepts.

Would you proceed on the basis that you're going to have to be more definite with him?

MR. RUNDBAKEN: All right.

BY MR. RUNDBAKEN:

Q Now, in the electronics area which you have stated --

MR. RUNDBAKEN: It's very difficult for me, your Honor, to -- to differentiate between things which are so vague. I'm making the best effort I can. I'm trying to sort out these things.

ADM. LAW JUDGE: I know. Mr. Rundbaken, I share with you the difficulty. I am not -- I am not underestimating. I sympathize with you.

But I'm suggesting to you that if you ask the Vocational Expert, Mr. Lipton, whether the claimant can perform certain gross functions as an assembler, I take it.

MR. RUNDBAKEN: Uh-huh.

ADM. LAW JUDGE: His idea of gross and your idea of gross and my idea of gross and certainly the witness's idea of gross ability may be 3 or 4 different things. So unless we have a starting point, "gross assembly," to Mr. Lipton may be vastly different than yours.

And therefore we're not communicating. And therefore the form of the question is objectionable.

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MR. RUNDBAKEN: Oh, I understand that.

ADM. LAW JUDGE: All right.

MR. RUNDBAKEN: I understand that.

BY MR. RUNDBAKEN:

Q Now, in the electronics field, as you mentioned, would a gross assembly job involve joining wire?

Is that the kind of job you're referring to?

A Well, that could be gross, in my opinion.

ADM. LAW JUDGE: Please refrain, Mr. Lipton, from using the conditional "could be." Either "it is" or "it isn't" or it's "you don't know."

MR. LIPTON: It is.

BY MR. RUNDBAKEN:

Q Now, a job of that nature: Is it usually done in a standing or a sitting position?

A Most of the time in a sitting position.

Q And does it involve having materials at hand, or does it involve getting materials to perform that job?

A Most items would be very light items, and there might be occasionally -- It depends on the manufacturer or employer with whom you work. Getting the materials, however, wouldn't be very difficult. Usually, they will provide it for them; but if they didn't provide it for them, it would be nearby so that they could pick it up and --

Q Now, the materials: Would they be in boxes that he

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would have to join?

A Depends on the manufacturer.

I don't know. Can't answer that.

Q Would one type of this work involve joining wires which were, say, in a box on the floor, for example?

A I think the type of work that we're talking about is work which is placed on a table, generally speaking, and provided for the individual by either the -- the person that assists in setting up the -- the wiring or whatever other --

Soldering, it might be, or perhaps even the assembling is generally done in most places.

Q So the job would -- would involve, in its most limited manner, the person sitting for long periods of time, during which someone else would be bringing him materials.

A Except that sometimes almost every --

Q Could you answer that "yes" or "no"?

Is that the case in most cases?

A I won't answer -- I can't answer that "yes" or "no" because he most cases he could get up.

Q In most cases he could get up?

A Yes.

ADM. LAW JUDGE: Well, now, we're -- We're in double-- double trouble. Double trouble.

Now, Mr. Rundbaken asked you a legitimate question for cross-examination; and you answered; I'm sure, to the best

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of your ability. But you threw in that word "could."

And I know it's very difficult because there are various types of jobs with variations in it.

But I want the record to show that, Mr. Rundbaken, that you're getting answers based upon variety.

MR. RUNDBAKEN: I understand.

ADM. LAW JUDGE: I -- I know it interferes with your cross-examination, but proceed.

I just wanted to clarify in court for my own mind because you're not getting the type of answer that, normally, you could reasonably expect.

Go ahead.

BY MR. RUNDBAKEN:

Q Let's go into specifics of the job of hand-bander, which you stated was one of the jobs.

Does that involve sitting most of the time?

A Most of the time, yes.

Q And are they materials which, I take it, are banded together by the worker?

A Yes.

Q And are those provided for him by others?

A Yes.

Q Now, are there some jobs where the materials are provided -- are provided by the worker?

Where the worker must get the materials?

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A. Yes.

Q. In what industries is this job found?

A. They're found in industries of paper goods. They're found in, probably, in the -- They are found, also, I would -- No. Strike that out.

They are found in the cigar industry. They are found in other packaging. They're found as they're necessary.

Q. So the job you're talking about in the cigar industry would be placing the band on the cigar.

Is that correct?

Or binding the cigars together.

Which one is it?

A. Yes.

Q. I'm not clear.

Either of those?

A. Yes.

Q. And in some of those jobs, at least, the worker would be obliged to get his own materials, such as cigars and bands.

Is that correct?

A. Yes.

Q. And are those materials stored in various places, to your knowledge, in boxes?

A. I'm not certain.

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Q. Now, in all these jobs involving assembling small

parts: The parts normally are in boxes, in groups of parts.

Isn't that correct?

A Yes and no.

Q In a large portion of the jobs, the materials which are to be bound or assembled are found in boxes.

Isn't that correct?

A That may be.

Q And in a good proportion of those jobs, to your knowledge as a Vocational Expert, the worker must get the boxes of materials to join them.

Isn't that correct?

A I couldn't answer that question because I think you have -- I think you have a -- You have --

Yes, it's -- Yes and no, again.

This depends --

Q I -- For the record, I just asked you if in some of these jobs --

A My answer is "yes."

ADM. LAW JUDGE: No, you didn't. You didn't.

MR. RUNDBAKEN: I'm sorry.

ADM. LAW JUDGE: You didn't.

MR. RUNDBAKEN: In that case, I will modify the question.

ADM. LAW JUDGE: Wait a minute; wait a minute; wait a minute.

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The question was -- Do you withdraw the question?

MR. RUNDBAKEN: Yes, I'm withdrawing that question.

ADM. LAW JUDGE: Because the question as it stood was -- "In a large proportion" was the original question.

MR. RUNDBAKEN: Oh, excuse me.

ADM. LAW JUDGE: Now, you started it "Some," so --

MR. RUNDBAKEN: And --

ADM. LAW JUDGE: Excuse me.

MR. RUNDBAKEN: I'm sorry, sir.

ADM. LAW JUDGE: Excuse me.

Mr. Lipton, you are in, in my judgment, the most important part of the evidence.

Now, if you want to help yourself, I think you ought to get answers to questions you asked.

MR. RUNDBAKEN: Right. No, I --

ADM. LAW JUDGE: Wait. Whichever side of the fence they fall on.

MR. RUNDBAKEN: I believed I had asked "In some."

Now, I -- I realize --

ADM. LAW JUDGE: In other words, be careful, in view of the fact that you're not getting the "yes" and "no" answers that you want on cross.

Be careful that he's answering the questions you ask him. Because if you don't ask him, I'm going to ask him.

MR. RUNDBAKEN: Go. As long as they get asked.

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ADM. LAW JUDGE: Well, you -- you go.

BY MR. RUNDBAKEN:

Q Now, you're very familiar with the watchmaking industry.

Isn't that correct?

A Yes, I am.

Q In that particular industry, are there -- the jobs of assemblers --

Are there both gross and fine assemblers in the watchmaking industry?

A In -- Yes. Yes, there are.

Q And what would you consider to be a gross assembler in the watchmaking industry?

A Well, he'd be in materiels. In materiel sales, where they take parts and package them for shipment to people that purchase them to repair the watches.

Q I see.

And these watches are packed in crates.

Is that correct?

A I'm talking -- I'm talking about the materiel sales.

There are jobs available in which you take parts that are already made up for replacement of the watch for those people that service the watch and are placed into small packets so that then they're available for sale to the various watch repair services throughout the country.

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Q Now, this would involve assembling pieces into packets, wouldn't it?

A Now, there are also -- They're also, in the watch-making industry, in addition to making watches, also have -- are involved in the making of -- of items for the escapement for fuses and things of that nature.

Q I didn't understand your first word. Escapement?

A Escapement.

No, never mind escapement. Strike out escapement. Items in -- in -- for the fuse industry.

ADM. LAW JUDGE: Mr. Rundbaken, he -- Mr. Lipton --

MR. LIPTON: Which -- Which the parts are gross, and it's part of the watchmaking industry.

MR. RUNDBAKEN: Yes, sir.

ADM. LAW JUDGE: He didn't answer your question.

RE-EXAMINATION

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BY ADM. LAW JUDGE:

Q The question was "In the watch -- "

Of course, this is right in your balliwick, now, Mr. Lipton. I think that was the question.

Does the -- Does this packaging of parts in the packages in the watch industry in sales include assembling, or is it just putting a required number of parts into the package and then having it shipped out?

A Well, for that particular item, it's -- it's

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assembly, but put them into the packets.

Q In other words, there's an assembly operation first?

A No, no. You're assembling,

In this particular case, you're just assembling the items into a package or packages in the --

Q Then we're playing with the word "assembly." I didn't mean that.

A All right.

Q I meant -- In other words, you just --

A There are -- There are also assembly areas in which the person has a specific job within one of maybe about 8 or 9 different types of assembly units, in which --

Q All right.

Now, we're talking about two separate things. Two separate things.

Let me ask -- May I ask a question, please, Mr. Rundbaken?

MR. RUNDBAKEN: Certainly.

BY ADM. LAW JUDGE:

Q Among your assemblers, your light assemblers in the watch industry, is there a job of just putting a pre-scheduled, pre-determined quantity and description of parts into a package?

A Not in watch assembly, per se.

Q Well --

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A. My answer is "no."

Q. No.

Then I must be mistaken.

I thought you testified that there is a job where you take the parts and you put them in the package.

A. Yes, I did.

Q. The assembler assembling the parts, meaning just discovering how many parts go into the package, rather than a -- a -- a putting together, mechanically, of pieces of metal.

A. Well, we're -- I think we're -- We're -- We're becoming a little more definitive than I anticipate.

Number One, if you're going to talk about the watchmaking industry, it has a host of jobs which would be from gross to the areas which I just spoke of. This would be done, I indicated, in the materiel sales area, if there was a job available -- jobs are available.

Another area which might fit in too, is --

I didn't speak about the watchmaking industry originally. I spoke about the areas which were not involved with actual watches.

But there are some jobs in the watchmaking industry as well.

Q. How many of them are around?

A. Well, how many are there?

There might be probably --

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Q I'm talking about hand-assembly, now.

Mr. Lipton, I want to tell you we're only concerned with a general classification called "hand-assembly."

A Well, I indicated that the assembler-trainee jobs in the hand -- in the assembly jobs in the city of New York were 30,000 jobs available in our economy.

I also indicated that these reference material cite that these sedentary and light and skilled jobs are performed -- can be performed after anywhere from a few hours to no more than a week's -- one week's training.

Q Right.

But, Mr. Lipton --

A I have not -- What I have not done is to indicate specifically.

Now, I don't know enough about every one of those areas to say to you if you asked the question to me --

You ask me the question, "How many jobs are in this particular area?" "Whether you move the box here and here."

Because I indicated again -- I repeat that this would vary depending upon the employer and the type of operation that he has in the 30,000 jobs which occasionally, although the number remains about the same, they may change from time to time as I indicated, on the basis of the jobs that they have acquired for their particular plant.

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MR. RUNDBAKEN: So I'd like to know, then, on the

basis of all this, if you could point out one job with -- to which the claimant, with his bending disability, with his standing and sitting disability, and his walking disability, and his lateral movement disability, whether there is one job that you could be sure that he could take?

ADM. LAW JUDGE: I just want to point out when you say his "limitations" or "disability," we're talking about --

MR. RUNDBAKEN: Wait a minute. That -- That's just the -- Those are just examples.

I'm -- I'm referring to the full range of his disability.

ADM. LAW JUDGE: That includes, when you say (inaudible) that he can sit for half an hour and stand for 3 hours.

MR. RUNDBAKEN: That's correct.

ADM. LAW JUDGE: Walk 4 blocks and lift up to 40 pounds.

MR. RUNDBAKEN: That's correct.

ADM. LAW JUDGE: That's what we're talking about: the second hypothetical.

MR. LIPTON: I just -- My answer to that is that I --

ADM. LAW JUDGE: Excuse me.

Go ahead and ask the question.

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RE-EXAMINATION

BY MR. RUNDBAKEN:

Q The -- The precise question was whether there was one job or type of job -- Not type of job. Excuse me.

One job in any particular industry that you could point to, which -- at which the claimant, given all his disabilities, including being able to sit only for a half an hour, I believe it was, not being able to bend or stoop repetitively.

If there was one job which you could point to that you were sure that he would be qualified for and would be able to do, considering his disability at the lowest level that we're talking about.

A My answer is "yes."

That's what I've been --

Q Well, which job?

A The job -- What do you mean by "Which job?"

I've given you all the jobs of the assembly -- of the assembly trainee.

Q That's correct.

A That's right.

Q But your -- You are unable to tell me whether any of these jobs include bending or stooping to pick up materials or whether they involve sitting for long periods of time.

Isn't that true?

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A. No. No.

The hypothetical question -- What you're asking exactly -- What in -- in the -- in the areas of which, with the ability to what he can do, with some -- with not too repetitive stooping and bending, with ability to sit almost up through, let's say, 30 to 45 minutes, an ability, occasionally, to rise --

ADM. LAW JUDGE: I must point out to you that --

MR. RUNDBAKEN: I -- I think --

ADM. LAW JUDGE: -- at the end of the hypothetical, the second hypothetical, I said, correcting myself, that he could lift up to 30 pounds --

MR. LIPTON: All right.

ADM. LAW JUDGE: -- and -- Excuse me.

Let me finish, please.

MR. LIPTON: Sorry, your Honor.

ADM. LAW JUDGE: And he had no impairment of sitting, standing, or walking.

MR. RUNDBAKEN: Well, in that case, I'm mistaken about the hypothetical.

But given that hypothetical --

MR. LIPTON: Sir, I should like to reiterate that I'm giving you a diexpertise (phonetic) on the basis of 25 years of experience; and I, personally, on the basis of what you have there, can place this man in a job.

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MR. RUNDBAKEN: I wish that this be stricken from the record. I don't believe this is relevant to my question or is it in any case an answer.

ADM. LAW JUDGE: That's true.

You must -- must remember that what we're interested in is his ability to do the work, not whether you can get him a job.

MR. LIPTON: I know.

But I -- I have -- I have repeatedly given you the area which there -- the only one area I gave you because I refrain from every other area so that on the basis of your question, your Honor, so that I knew this man -- If this is what you decide to do if in your answer it is found that this man had this medical -- that this is what you agree with, these are the areas in which he can find placement.

Now, you can't -- If you pinpoint the man to any particular job, then you would ask the question if it might be difficult.

So here's an area that is listed by the -- by the Occupational Outlook as an area for this type of person in which there are jobs available. If you -- Exactly where and when depends on the situation daily because jobs are available daily.

And if you read the newspapers, you will find those jobs. And if I brought the Newsday (phonetic), the New York Times --

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MR. RUNDBAKEN: I am --

MR. LIPTON: -- and the (inaudible).

MR. RUNDBAKEN: -- going to have to request that that part of the testimony be stricken about the newspapers and --

ADM. LAW JUDGE: Well, I'm not going to strike it because it's in -- It's in reference to where you can find jobs available.

In other words, if you want to cross him and say that they're not there --

MR. RUNDBAKEN: I don't believe it's relevant whether there are jobs available right now.

The question is, what type of jobs are you talking about?

ADM. LAW JUDGE: I agree that in a technical sense the availability of a particular job is not relevant. What is material is his ability to perform the jobs.

MR. RUNDBAKEN: That's correct.

ADM. LAW JUDGE: I think you'd agree with that.

MR. RUNDBAKEN: That's correct.

ADM. LAW JUDGE: However, I think what Mr. Lipton was testifying to is saying that jobs within the category of -- And correct me if I'm wrong, Mr. Lipton -- jobs within the categories of which he's testified; to wit, hand-assembly, are in the newspapers.

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In other words, it's true that the availability of the jobs on any particular day is not relevant. But the general availability of jobs goes to the question of whether there are jobs like that in the national economy.

So I'm not going to strike it.

I overrule your objection.

I don't think it makes much difference, if you want to know the truth.

MR. RUNDBAKEN: I have no further questions.

ADM. LAW JUDGE: I do. Just -- Just a few.

What we've done so far -- But first a hypothetical question. At least this was my attempt. You can comment on it if you wish, Mr. Rundbaken -- was to give you a series of the circumstances, the medical and psychic circumstances of the claimant which would be most favorable to him.

In other words, which would be most significant as having major impairments.

You've answered the question.

It would be, he couldn't go back to his old job.

The second hypothetical gave you, in substance, the limitations imposed in the physical examination by Dr. Nelson on or about July of 1972, which, so far as I know, the latest medical situation we have with regard to the claimant.

I'd like to give you a little in-between now and really make it tough for you, Mr. Lipton, because you were

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circling around the point anyway.

XXXXXXX RE-EXAMINATION

BY ADM. LAW JUDGE:

Q Dr. Nelson found that he could lift up to 30 pounds. He should, as I've told you, avoid repetitive bending and -- and repetitive stooping; but he has no impairments of sitting, standing, or walking.

You understood those facts to be the basis of your hypothetical -- of your answer to the hypothetical question.

Is that true?

A Yes, your Honor.

Q What happens if I said that he can only -- and this is the third hypothetical:

He can only sit for half an hour. He can stand for 3 hours. He can walk 4 blocks and can lift only up to 10 pounds but is still capable of using public transportation.

Now, I call to your attention that these are the -- Oh, yes, and that he has some pain in bending, lifting, bending and lifting.

These are the facts which Mr. -- Dr. Nelson allegedly says that the claimant told him in 1972.

And if those were the limitations, could he go back to his old job?

A No.

Q Could he perform any job in the metropolitan area

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of New York with those limitations?

A Only a selected few that could be found.

Q And how many -- What jobs would they be in?

Do you have any ideas?

A Offhand, no.

Q So that, in substance, you're saying if --

A He -- It could be in the sense if he could find a selected position where he could get work, sit for a half hour, and stand up for a half hour or 30, 40 minutes.

That's why I referred to it as "selective few."

ADM. LAW JUDGE: I see. All right.

I understand. At least I'm -- I'm satisfied with that answer with regard to what his situation would be if he had the symptoms and signs and limitations, I should have said, which he told Dr. Nelson about in July of 1972.

Do you have any further questions?

MR. RUNDBAKEN: No.

ADM. LAW JUDGE: I have no further questions at this point.

(Witness excused.)

ADM. LAW JUDGE: Let's go off the record just for a moment before we conclude.

(Off the record.)

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Whereupon,

FELIX ROJAS-GONZALES

the claimant herein, having been previously duly sworn, was examined and testified further as follows:

EXAMINATION

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BY ADM. LAW JUDGE:

Q You still wear that back brace, Mr. Rojas-Gonzales?

A Yes.

I take it off to sleep.

Q All right.

By the way, what -- Where do you live?

In what kind of a house?

A A house owned by some Cubans.

Q I see.

Do you live on the 1st floor, the 2nd floor, or the 3rd floor?

A Basement.

Because I cannot walk up steps.

Q How many steps down is the basement?

A 3 steps.

Q Do you make your own meals?

A Yes.

I cannot do anything like picking up pans or things of that --

Q Do you do your own --

Ace Federal Reporters, Inc.

A -- open up a can.

Q Do you do your own shopping?

Don't answer -- I don't want to hear what he said.

Do you do your own shopping?

A I cannot carry anything. I go shopping, but they bring the stuff over to the house. I have delivery.

Q And what is your address now?

A 5611 King's Highway.

Q It used to be 1500 King's Highway, wasn't it?

A Before I live at (inaudible) 1705 Barclay (phonetic).

Q But now it's 5611 King's Highway?

A Yes.

(Claimant excused.)

ADM. LAW JUDGE: And what's the zip code there?

MR. RUNDBAKEN: 11203.

ADM. LAW JUDGE: All right.

Now, do you think 2 weeks is enough, Mr. Rundbaken, for --

MR. RUNDBAKEN: Yes, I think so.

ADM. LAW JUDGE: -- submission of that?

MR. RUNDBAKEN: Well, as I said, it's not up to my discretion. I will --

ADM. LAW JUDGE: Certainly not.

MR. RUNDBAKEN: I will write today, and I will have the brief in at whatever time you --

Ace Federal Reporters, Inc.

ADM. LAW JUDGE: Well, I don't want any brief until we know what the facts are.

MR. RUNDBAKEN: Correct.

ADM. LAW JUDGE: So I'll give you 2 weeks to get -- Can't we do it faster than 2 weeks from Dr. Springer?

MR. RUNDBAKEN: I would hope so.

ADM. LAW JUDCE: 2 weeks today, received in this office, unless you make some application in the meantime for the latest examination.

After that, I may or may not send those facts or any description of the facts to Mr. Lipton to see whether it would change his testimony with regard to his physical limitations today.

And I must tell you, on the basis of what Dr. Springer tells us, I may send him out for another consultative.

MR. RUNDBAKEN: Another physical, you mean.

ADM. LAW JUDGE: That's right.

By a -- By a State Agency physician.

MR. RUNDBAKEN: That is -- That's your --

ADM. LAW JUDGE: That's right.

Well, let's see what we can get before we start speculating.

Receivement 2 weeks from today, received in this office, we will get, unless there's some other application by

Ace Federal Reporters, Inc.

Mr. Rundbaken of the Legal Aid Society, Dr. Springer's report.

All right?

We'll proceed from there.

MR. RUNDBAKEN: All right.

ADM. LAW JUDGE: The hearing is closed.

Thank you, ladies and gentlemen.

(Hearing closed at 11:45 a.m., September 24, 1973.)

HEARING ASSISTANT: Administrative Law Judge.

The record in this case was reopened in Brooklyn, New York, on October 30, 1973, to admit the following documents into evidence, which were received subsequent to the hearing:

Exhibit 25 - Letter from Eric A. Rundbaken, Esq., dated October 15, 1973, with photostat copy of Workmen's Compensation Board report, signed by M. Springer, M. D., dated July 23, 1973;

Ace Federal Reporters, Inc.

BEST COPY AVAILABLE

Exhibit 26 - Professional qualifications of Morris Springer, M. D.; 129

Exhibit 27 - Brief from Eric A. Rundbaken, Esq., dated October, '73.

There being nothing further, the hearing is closed.

* * * * *

Ace-Federal Reporters, Inc.

CERTIFICATION

I have read the foregoing and hereby certify that it is a true and complete transcription of the testimony recorded at the hearing held in the above case before Administrative Law Judge Robert W. Leiner.

Elwood F. Fox, Transcriber

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Social Security Administration

Form Approved.
Budget Bureau No. 72-R0530

APPLICATION FOR DISABILITY INSURANCE BENEFITS

(Do not write in this space)

130

NOTICE. — (a) Whoever makes or causes to be made any false statement or representation of a material fact in an application or for use in determining a right to payment under the Social Security Act, or (b) whoever, having received a payment for the use and benefit of another person, knowingly and willfully uses such payment for other than the person for whom it is received, is subject, under the Social Security Act, to a fine of not more than $1,000 or 1 year's imprisonment, or both.

I hereby apply for a period of disability and/or all insurance benefits payable to me under Title II of the Social Security Act, as amended.

1. Enter your full name: Felix Gonzalez Rojas

(Check one) ☒ Male ☐ Female

Enter your Social Security number (If none or unknown so indicate): 582 | 26 | 9405

2. Enter your date of birth (Show month, day, and year): 6/5/21

Enter the name of the State or Foreign Country where you were born: Ciales P.R.

3. (a) Have you (or has someone on your behalf) ever filed an application for a period of disability or social security benefits before?

☐ Yes (*If "Yes," answer (b), (c), and (d).*) ☒ No (*If "No," go on to item 4*).

(b) Kind of claim filed

(c) Enter name of person on whose earnings record you filed other application(s)

(d) Enter Social Security Number of person named in (c)

4. What is your disability? (*Briefly describe your impairment, that is, the injury or illness that prevents, or has prevented, you from working.*)

two broken bones on back

5. (a) When did you become unable to work because of your disability? Date (*Month, day, and year*): 6/9/71

(b) Are you still disabled?

☒ Yes (*If "Yes," go on to item 6.*) ☐ No (*If "No," answer (c).*)

(c) If you are no longer disabled, enter the date you were again able to work. → Date (*Month, day, and year*)

6. Check any of the following which apply to you:

(a) ☐ Confined in a medical institution other than a general hospital

(b) ☐ Patient in a general hospital

(c) ☐ Confined in bed at home

(d) ☐ Confined in a chair (*Including wheel chair*)

(e) ☐ None of the above but unable to go outside

(f) ☒ Able to go outside but only with help of another person or device

(g) ☒ Able to go outside without help

FCR

FORM SSA-16 (1-70) (Over)

Exhibit 1 (4 pp)

7. (a) Have you EVER filed (or do you intend to file) claims for disability benefits under any workmen's compensation law or plan?

☒ Yes (*If "Yes," answer (b) and (c).*) ☐ No (*If "No," go on to item 8.*) 131

(b) Has there been any decision or any payment (temporary, permanent, or lump-sum) made on the claim(s) filed?

☒ Yes (*If "Yes," answer (c) and (d).*) ☒ No (*If "No," answer (c).*) ZCR

(c) Workmen's compensation claim number(s) Y2-25578

(d) Enter the amount of the weekly payment made to you $ 61.03 wkly

(If you are receiving or have received payments on other than a weekly basis, such as bi-weekly or monthly payments, or if you have received a lump-sum payment based on your workmen's compensation claim, please indicate in "Remarks" and include the amount of such payment or payments.)

8. Did you work in the railroad industry any time on or after January 1, 1937?

☐ Yes ☒ No

9. (a) Were you in active military or naval service after September 7, 1939?

☐ Yes (*If "Yes," answer (b) and (c).*) ☑ No (*If "No," go on to item 10.*)

(b) Enter name of branch (Army, Navy, etc.), country served (if other than U.S.) and dates of service.

(c) Have you received, or do you expect to receive, a benefit from any other Federal agency?

☐ Yes (*If "Yes," enter the names of all such agencies.*) ☐ No

10. • Enter the names and addresses of all the persons, companies or government agencies for whom you worked during the last 12 months.
• If you worked in agricultural employment, give this information for this year and last year.
NOTE: If you were not an employee this year or last year, enter the information for your *last* period of employment no matter how long)
• If you have never been an employee, enter "none" below and go on to item 12 regarding self-employment.

NAME AND ADDRESS OF EMPLOYER	WORK BEGAN		WORK ENDED (*If still working show "Not Ended"*)	
	Month	Year	Month	Year
STANDARD WIPING MATERIALS INC 645 Dean St Brklyn. 11238	prior	1970	6/	71

(*If you need more space, use "Remarks" space on the back page.*)

11. May the Social Security Administration or the State agency reviewing your case ask your employers for information needed to process your claim? ☒ Yes ☐ No

12. Were you self-employed this year, last year, or the year before?

☐ Yes (*If "Yes," answer item 13.*) ☒ No (*If "No," go on to item 14.*)

13.

CHECK THE YEAR OR YEARS IN WHICH YOU WERE SELF-EMPLOYED	IN WHAT KIND OF TRADE OR BUSINESS WERE YOU SELF-EMPLOYED?	WERE YOUR NET EARNINGS FROM YOUR TRADE OR BUSINESS $400 OR MORE? (*Check "Yes" or "No"*)
☐ This Year		
☐ Last Year		☐ Yes ☐ No
☐ Year Before Last		☐ Yes ☐ No

14. How much were your total earnings last year? (*Count both wages and self-employment income. If none, write "None"*) ..... $ 5 132

15. How much have you earned so far this year? (*If none, write "None"*) ..... $ 2500

16. (a) Check (✓) whether you are:
☑ MARRIED (*Whether living together or separated*) ☐ WIDOWED ☐ DIVORCED ☐ SINGLE
(*If you checked "MARRIED" or "WIDOWED," complete (b), (c), and (d) if appropriate.*) (*If you checked "DIVORCED" or "SINGLE" go on to item 18.*)

(b) Enter your wife's maiden name or your husband's name	Date of Birth (*If unknown, give age*)	Date of Marriage	If husband or wife is age 62 or over or is filing for disability benefits, enter his or her Social Security No.
Lydia Torres	38	~~[illegible]~~	

(c) If your husband or wife is deceased, enter the date of death here → Date of Death: see remarks

(d) If you are a married woman, was your husband receiving at least one-half of his support from you at the time you became unable to work because of your disabling condition, or is he receiving at least one-half of his support from you now? ☐ Yes ☐ No

17. Answer item 17 only if you are married AND your husband or wife is applying for benefits.

(a) Check (✓) whether your marriage was performed by:
Clergyman or authorized public official ☐, or other ☐ ..... (*Explain*)

(b) Were you married before your present marriage? ☐ Yes ☐ No
(*If "Yes," give the following information about each of your previous marriages.*)

	To Whom Married	When (*Month, day, and year*)	Where (*Enter name of city and State*)
Previous marriage	How marriage ended	When (*Month, day, and year*)	Where (*Enter name of city and State*)
Previous marriage	To Whom Married	When (*Month, day, and year*)	Where (*Enter name of city and State*)
	How marriage ended	When (*Month, day, and year*)	Where (*Enter name of city and State*)

(*Use "Remarks" space on back page for information about any other marriage.*)

18. (a) Do you have ANY children (including natural children, adopted children, and stepchildren) who are now or were in the past 12 months UNMARRIED and

• UNDER AGE 18	☑ Yes	☐ No
• AGE 18 TO 22 AND ATTENDING SCHOOL	☐ Yes	☒ No
• DISABLED (18 OR OVER AND DISABILITY BEGAN BEFORE AGE 18)	☐ Yes	☒ No

If you have children who may qualify for benefits under any of the above conditions, answer (b) and (c).

(b) Full Name of Child: Jorge Gonzalez Torres — Full Name of Child:

(c) Do you wish to apply on behalf of all the children named in item 18(b) for all insurance benefits payable to them under Title II of the Social Security Act, as amended? ☐ Yes ☒ No
If you are not applying for any child you name, enter the child's name under "Remarks" (back page of this form) and explain why you are not applying for such child. You may apply for a child even though you do not wish to be the payee for the child's benefits.

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19. Do you have a dependent parent who was receiving at least one-half of his or her support from you at the time shown in item 5(a) when you became unable to work because of your disability? ☐ Yes ☒ No

20. Do you authorize any physician, hospital, agency, or other organization to disclose to the Social Security Administration or to the State agency that may review this application or your continuing disability, any medical records or other information about your disability? ☒ Yes ☐ No

YOU MUST NOTIFY THE SOCIAL SECURITY ADMINISTRATION PROMPTLY IF:

- Your MEDICAL CONDITION IMPROVES so that you would be able to work, even though you have not yet returned to work.
- You GO TO WORK whether as an employee or a self-employed person.
- You apply for periodic benefits under any workmen's compensation law or plan.
- You are DISCHARGED FROM THE HOSPITAL if you are now hospitalized.

21. Do you agree to notify the Social Security Administration promptly if any of the above events occur? ☒ Yes ☐ No

Remarks: (*This space may be used for explaining any answers to the questions. If additional space is required, attach separate sheet.*)

Rosa Rojas - mother
Felix Gonzalez López - father
Ciales, Puerto Rico
I began living with Lydia Torres about 1931 in P.R. We live together 15 years ago in N.Y. State We returned to P.R about 8 years ago. We weren't ever in any other states. We were never legally married. I have a son 17yrs old in Elsewhere P.R. I will notify SS when I found out his address.

IMPORTANT INFORMATION. PLEASE READ CAREFULLY.—A claimant for disability insurance benefits is required to submit medical evidence showing the nature and extent of his disability during the time he alleges he was under a disability. If such evidence is not sufficient to arrive at a determination, he may be requested to have an independent medical examination at the expense of the Social Security Administration. Should Social Security obtain information useful to his physican for treatment, such information may be furnished to him.

I know that anyone who makes a false statement or representation of a material fact in an application or for use in determining a right to payment under the Social Security Act commits a crime punishable under Federal Law. I affirm that the above statements are true.

SIGNATURE OF WITNESSES ZCR

If this application has been signed by mark (X), two witnesses who know the applicant must sign below, giving their full addresses.

1. Signature PLEASE NOTE MY SON WILL WHEN I FURNISH ADDRESS

Address (*Number and street, City, State, and ZIP Code*) OF CUSTODY I DO NOT HAVE ANY PROOF THAT HE IS MY

2. Signature SON BUT AT THE BIRTH-CERTIFICATE MAY SHOW THAT. I NEVER SUPPORTED

Address (*Number and street, City, State, and ZIP Code*) MY SON MAINTAINED MY STAY FOR HIM UNTIL THE AGE OF 5 YEARS.

SIGNATURE OF APPLICANT

Signature (*First name, middle initial, last name*) (*Write in ink*)

SIGN HERE ▷ Felix Rojas Gonzalez

Exhibit 1

Mailing address (*Number and street, Apt. No., P.O. Box, or Rural Route*) 1705 1705 Park Pl

City and State Brklyn NY

Zip Code 11233

Date (*Mo., day and year*) Sept 11 71

Telephone number HS PR 2-7468

Enter name of county (*if any*) in which you now live Kings

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION

FORM APPROVED
BUDGET BUREAU 72R523.5

DISABILITY DETERMINATION AND TRANSMITTAL

1. FOLDER TO: BDI ☐ SA [X] DFC ☐
2. DATE APP'D. 09/09/71
3. W/E (If Auxiliary Filing) OASI W/E ☐ DIB W/E ☐
4. SOCIAL SECURITY ACCOUNT NUMBER 582-26-9405 134
5. NAME AND ADDRESS OF CLAIMANT
Felix Rojas-Gonzalez
1705 Park Pl
Brooklyn NY 11233
6. DB 06/05/21
7. SEX M [X] F ☐
8. RACE W [X] N ☐ O ☐
9. AOD 06/09/71
10. AGE 50
11. CLAIM FOR: FREEZE ☐ DIB [XX] CHILD ☐ DWB ☐
12. FAMILY STATUS: MAR [X] SG ☐ NO. CHILDREN (UNDER 18) 0
13. QC REQ. LAST MET 03/31/55
14. ☐ W/E DOES NOT MEET QC REQ. A. ☐ DIS. BDI REVIEW B. ☐ SINCE LAST DET.
15. PREV. DENIED OR TERM. ☐
16. NON DIS DEV IN PROGRESS ☐
17. MED. DEV. DEF. ☐
18. S A CODE 330
19. STATE NYS
20. DISTRICT OFFICE ADDRESS 345 Adams St Brooklyn NY 11201
DO CODE 106
RO CODE 21

FILE REVIEWED & APPROVED FOR TRANSMITTAL
21. CLAIMS REPRESENTATIVE Tony Kalb
22. DATE OF TRANSMITTAL 10/28/71
23. REMARKS
1971 NOV -1 NY 10: 12
PRESCRIBED PERIOD

PURSUANT TO PROVISIONS OF SEC. 221 OF SOCIAL SECURITY ACT, IT IS DETERMINED THAT THE CLAIMANT:

24. ☐ HAS BEEN UNDER A DISAB. SINCE
25. ☐ WAS UNDER A DISAB. A. DATE FROM B. TO
26. ☐ WAS NOT UNDER A DISAB. ON OR BEFORE (Date)
27. [X] WAS NOT UNDER A DISAB.
28. CASE OF BLINDNESS AS DEFINED IN SEC. 216(i)
A. ☐ NOT UNDER A DISAB. FOR CASH BENE. PURP. B. ☐ UNDER A DISAB. FOR CASH BENE. PURP. SINCE
29. DIAGNOSIS Cerebral Sclerosis Fx D-8
30. MPR CODE C
31. VOCATIONAL BACKGROUND (Occupation) picking machine operator (garments)
OCC. YEARS 6
EDUC. YEARS 8
32. BASIS FOR DETERMINATION
L L L L

[X] CONTINUED ON ATTACHED SHEET (Use OA-0834)

33. RECOMMEND RE-EXAM ON (Date)
34. DISABILITY EXAMINER S A S. Drucker
35. DATE 11/4/71
36. REVIEW PHYSICIAN SA [signature]
37. DATE 11 6 71

TO BE COMPLETED BY SSA

38. ☐ CHILD'S DISABILITY BEGAN BEFORE AGE 18 AND CONTINUES. ☐ CHILD NOT UNDER A DISABILITY WHICH BEGAN BEFORE AGE 18.
39. [X] W/E MEETS QC REQ. IN 4/71 QTR ☐ W/E DOES NOT MEET QC REQ. HAS ___ OF ___ QTRS. FOR AOD ENDING ___
40. A PERIOD OF DISABILITY IS ☐ ESTABLISHED FROM ___ TO ___ [X] NOT ESTABLISHED
41. REMARKS See revised OAD 831 8/18/72 Exhibit 2 (3?)

42. RE EXAM REQ.
43. DISABILITY EXAMINER
44. DATE
45. DISABILITY EXAMINER [signature] 99
46. DATE 11/4/71

CLAIMANT TO BE NOTIFIED BY:
47. ☐ BDI ☐ PC
48. LTR PAR NO 3052 (3/31/75)
49. PRIOR ACT ☐ PD ☐ PT ☐ REVISED
50. BASIS CODE L
51. A OR D CODE D-1
52. RETURN CODE
53. CAT [X] DIB ☐ W ☐ OSF ☐ CH ☐ FR
54. SPECIAL CODE ☐ VA ☐ VAD
55. LIST NO. 244

FORM OA-0831 (11-69)

FOLDED COPY

Exhibit No. 1

CONTINUATION SHEET
FOR DISABILITY DETERMINATION

SS:ero 12 **135**

NOTE.---Use this form only when necessary for continuation of Item 32 of "DISABILITY DETERMINATION" or "CESSATION OR CONTINUANCE OF DISABILITY".

NAME OF WAGE EARNER	NAME OF WAGE EARNER(IF AUXILIARY FILING)	SOCIAL SECURITY ACCOUNT NO	DATE
Felix Rojas-Gonzalez		582-26-9405	11/4/71

The Brooklyn Cumberland Medical Center - treatment of 6/9/71 to 6/26/71.

Dr. Eugene Rogers, report of 8/17/71.

Although medical evidence demonstrates the wage earner has a severe impairment at the present time, there is no neurological involvement, and progress to the present indicates that impairment will not be disabling for a period of 12 months. Since the wage earner does not have an impairment which will prevent SGA for a continuous period of 12 months, disability cannot be established and the case must be denied.

FORM SSA 834
(2-69)

FOLDER

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
BALTIMORE, MARYLAND 21241

136

REFER TO:

November 22, 1971

BUREAU OF
DISABILITY INSURANCE

582-26-9405

Mr Felix Rojas-Gonzalez
1705 Park Pl
Brooklyn NY 11233

Dear Mr. Gonzalez:

We have determined that you are not entitled to disability insurance benefits because you do not meet the disability requirement of the law. In reaching this decision we considered how much your condition has affected your ability to work. After carefully studying your records, including the medical evidence and your statements, it has been determined that you are not expected to be disabled for a continuous period of at least 12 months. Therefore, you do not meet the disability requirement of the law. If your condition does not improve as expected and continues to keep you from doing any substantial gainful work, please get in touch with your social security office.

Your social security record at the time you applied for disability benefits shows that you meet the earnings requirement for disability purposes until **March 31, 1975**. Any additional earnings which may be credited to your record after the time you applied may, of course, extend this date. An explanation of the disability requirement and the earnings requirement is given on the back of this notice.

If you believe that this determination is not correct, you may request that your case be re-examined. If you want this reconsideration, you must request it not later than 6 months from the date of this notice. You may make your request through any social security office. If additional evidence is available, you should submit it with your request. Please read the enclosed leaflet for a full explanation of your right to question the determination made on your claim.

If you have questions about your claim, you may get in touch with any social security office. Most questions can be handled by telephone or mail. If you visit an office, however, please take this letter with you.

Sincerely yours,

F H Sheel

Exhibit 3 (3pp)

F. H. Sheel
Director, Division of Initial Claims

Enclosure:
SSI-58

Exhibit No. _____

SSA-L460.2 (7-71)

IMPORTANT INFORMATION

Under the Social Security Act, a person may qualify for disability insurance benefits only if he meets both the earnings requirement and the disability requirement of the law. The information below explains these requirements:

The Earnings Requirement:

- A person whose disability began before age 24 meets the earnings requirement if he has social security credits for 6 calendar quarters (1½ years) of work during a 12-quarter (3-year) period ending with a quarter before age 24 in which he is disabled.
- A person whose disability began between the ages 24 and 31 meets the earnings requirement if he has social security credits for work in at least one half of the calendar quarters in the period beginning with the calendar quarter after age 21 and ending with a quarter before age 31 in which he is disabled.
- A person whose disability began at age 31 or later meets the earnings requirement if he has social security credits for 20 calendar quarters (5 years) of work during a 40-quarter period (10 years) ending in or after a quarter in which he is disabled.

If a person does not have credit for the amount of work shown above he is not eligible for disability insurance benefits.

The Disability Requirement:

A person may be considered disabled only if he is unable to perform any substantial gainful work due to a medical condition which has lasted or can be expected to last for a continuous period of at least 12 months. His impairment must be so severe as to prevent him from working not only in his usual occupation but in any other substantial gainful work considering his age, education, training, and work experience.

The decision on your claim was made by the Social Security Administration on the basis of a disability determination by an agency of the State in which you live. Physicians and other trained disability evaluation personnel in the State agency participate in making such determinations.

Definitions of disability are not the same in all government and private disability programs. Government agencies must follow the particular laws which apply to their disability programs. Therefore, a finding by a private organization or another government agency that a person is disabled would not necessarily mean that he meets the disability requirement of the Social Security Act.

No benefits may be paid to the wife, husband, or child unless the wage earner or self-employed person is entitled to disability insurance benefits.

This notice concerns only your disability application. It is not a decision as to whether retirement, survivors, or hospital and medical insurance benefits are payable.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION

Form Approved.
OMB No. 72-R0552

REQUEST FOR RECONSIDERATION

(Do not write in this space)

BROOKLYN NEW YORK
NY01
MAY 11 1972
2/105 138
SSA DISTRICT OFFICE

NAME OF WAGE EARNER OR SELF-EMPLOYED PERSON: Felix Rojas
SOCIAL SECURITY CLAIM NUMBER: 582-26-9405

NAME OF CLAIMANT (If different from person named above.)

CLAIM FOR (Specify type, e.g., retirement, disability, hospital insurance, etc.)
SSI.

I do not agree with the determination made on the above claim and request reconsideration.

My reasons are: I'm still disabled, I'm still under the doctor's care I can't go back to go work. I don't have any income now and my condition prevents me from working.

1972 MAY 22 AM 8:45

NOTE: If the date of the notice of the determination on this claim was more than six months ago include your reason for not making this request earlier.

I am submitting the following additional evidence (If none, write "None."):
Please Contact my DR.
DR. EUGENE J. ROGERS M.D (Physical Therapy)
1664 - 41st St
Bklyn NY 11218 (436-3650)

Signature (First name, middle initial, last name) (Write in ink)
SIGN HERE ▷ Felix Gonzalez Rojas

Date (Month, day, year)

Telephone Number 11-2-7463

Mailing Address (Number and street, Apt. No., P.O. Box, or Rural Route)
1705 Park Place

City and State: Bklyn N.Y.
ZIP Code: 11233
Enter Name of County (if any) in which you now live: Kings

Witnesses are required ONLY if this request has been signed by mark (X) above. If signed by mark (X), two witnesses to the signing who know the person requesting reconsideration must sign below, giving their full addresses

1. Signature of Witness

Address (Number and street, City, State, ZIP Code)

2. Signature of Witness

Address (Number and street, City, State, ZIP Code)

FOR SOCIAL SECURITY OFFICE USE ONLY

PROVIDER NAME AND NUMBER (City and State)	INTERMEDIARY NAME AND NUMBER (City and State)	SOCIAL SECURITY OFFICE ADDRESS

Exhibit 4

ROUTING INSTRUCTIONS (Check one)

- ☐ State Agency (Route with disability folder)
- ☐ Payment Center _____ BDI, Balto. ☐
- ☐ _____ Intermediary ☐ DRB, Balto.
- ☐ Division of Foreign Claims, Balto.
- ☐ BDPA, Attn: CWAB, Balto.
- ☐ _____ RO (Emergency)

FORM SSA-561 (4-71) NOTE: Take or mail completed copies to your Social Security Office.

Exhibit No. 1

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION

RECON

FORM APPROVED
BUDGET BUREAU 72R523.5

DISABILITY DETERMINATION AND TRANSMITTAL

1. FOLDER TO: BDI ☐ SA ☒ DFC ☐

2. DATE APP'D. 8/9/71

3. W/E (If Auxiliary Filing) OASI W/E ☐ DIB W/E ☐

4. SOCIAL SECURITY ACCOUNT NUMBER 583-26-9405 139

5. NAME AND ADDRESS OF CLAIMANT
Felix Rojas-Gonzalez
~~1905 Park Place~~ 5611 Kings Hwy
Brooklyn, New York 11203

6. DB 6/5/21

7. SEX M ☐ F ☐

8. RACE W ☒ N ☐ O ☐

9. AOD 6/9/71

10. AT AGE 50

11. CLAIM FOR: FREEZE ☐ DIB ☒ CHILD ☐ DWB ☐

12. FAMILY STATUS: MAR. ☒ SG. ☐ NO CHILDREN (UNDER 18) 0

13. QC REQ. FAST ☐ MET ☒ SI. ☐

14. ☐ W/E DOES NOT MEET QC REQ. A. ☐ DIS. BDI REVIEW B. ☐ SINCE LAST DET.

15. PREV. DENIED OR TERM. ☐

16. NON DIS. DEV. IN PROGRESS ☐

17. MED. DEV. DEF. ☐

18. S A CODE 330

19. STATE New York

20. DISTRICT OFFICE ADDRESS
345 Adams Street
Brooklyn, New York 11201

DO CODE 106

RO CODE 21

FILE REVIEWED & APPROVED FOR TRANSMITTAL

21. CLAIMS REPRESENTATIVE

22. DATE OF TRANSMITTAL

23. REMARKS Rec'd S.A. 8/22/71

PRESCRIBED PERIOD

PURSUANT TO PROVISIONS OF SEC. 221 OF SOCIAL SECURITY ACT, IT IS DETERMINED THAT THE CLAIMANT:

24. ☐ HAS BEEN UNDER A DISAB. SINCE

25. ☐ WAS UNDER A DISAB. A. DATE FROM B. TO

26. ☐ WAS NOT UNDER A DISAB. ON OR BEFORE (Date)

29. DIAGNOSIS Compression Fracture D 8

27. ☒ WAS NOT UNDER A DISAB.

28. CASE OF BLINDNESS AS DEFINED IN SEC. 216(i)
A. ☐ NOT UNDER A DISAB. FOR CASH BENE. PURP. B. ☐ UNDER A DISAB. FOR CASH BENE. PURP. SINCE

30. MOB CODE

31. VOCATIONAL BACKGROUND (Occupation) Packing Machine Operator (Garment) stand-work - Sewing left 5th

OCC. YEARS 5

EDUC. YEARS 2

32. BASIS FOR DETERMINATION
H-1 1562 (h)

AUG 9 1972

☒ CONTINUED ON ATTACHED SHEET (Use OA-D834)

33. RECOMMEND RE-EXAM ON (Date)

34. DISABILITY EXAMINER S.A.

35. DATE 8/2/72

36. REVIEW PHYSICIAN SA

37. DATE 8/3/72

TO BE COMPLETED BY SSA

38. ☐ CHILD'S DISABILITY BEGAN BEFORE AGE 18 AND CONTINUES
☐ CHILD NOT UNDER A DISABILITY WHICH BEGAN BEFORE AGE 18.

39. ☒ W/E MEETS QC REQ. IN 4/71 QTR.
☐ W/E DOES NOT MEET QC REQ. HAS ___ OF ___ QTRS. FOR AQD ENDING ___

40. A PERIOD OF DISABILITY IS
☐ ESTABLISHED FROM ___ TO ___
☒ NOT ESTABLISHED

41. REMARKS This revises OAS 831 11/6/71 Exhibit 5 (2nd)

42. RE EXAM REQ.

43. DISABILITY EXAMINER

44. DATE

45. DISABILITY EXAMINER

46. DATE 8/15/72

CLAIMANT TO BE NOTIFIED BY:

47. ☒ BDI ☐ PC

48. LTR. PAR. NO DL

49. PRIOR ACT ☐ PD ☐ PT ☒ REVISED

50. BASIS CODE T1

51. A OR D CODE D-1

52. RETURN CODE R

53. CAT. ☐ W ☐ DIB ☐ OSP ☐ CH ☐ FR

54. SPECIAL CODE ☐ VA ☐ VAD

55. LIST NO.

FORM OA-D831 (11-69)

1-FOLDER COPY

Exhibit No. 5 (2nd)

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Social Security Administration

CONTINUATION SHEET
FOR DISABILITY DETERMINATION

ML:epr RCH-4

NOTE.---Use this form only when necessary for continuation of rationale of "DISABILITY DETERMINATION" or "CESSATION OR CONTINUANCE OF DISABILITY".

NAME OF DISABLED INDIVIDUAL	NAME OF WAGE EARNER(IF AUXILIARY FILING)	SOCIAL SECURITY NUMBER
Felix Rojas-Gonzalez		582-26-9405 140

The statement of evidence in the determination of 11/6/71, except as modified herein, is hereby incorporated by reference, but not the inferences, findings or conclusion thereon.

Report from Dr. Eugene Rogers, 5/15/72.

Orthopedic Evaluation by Dr. Irwin J. Nelson, 7/6/72.

An interview was conducted with the claimant at the State Agency in order to determine if there was any further medical evidence to be presented in support of his claim for Social Security benefits. The claimant stated that he is still taking pain medication due to severe pains in the entire spine. Dr. Rogers told him he could not lift 40 pounds. The claimant states that he cannot walk, stand or sit for any length of time. He also states that he has no strength in either arm.

The present consultative examination shows a scoliosis with angulation and rotatory wedging of the thoracic spine. There is some restriction of rotation of the cervical spinealthough there is full flexion and extension. The Specialist notes that the claimant should avoid lifting over 30 pounds and should avoid repetitive bending and stooping. There is no impairment of sitting, standing or walking and no impairment of either fine or gross manipulations.

The claimant's customary work was heavy, unskilled in nature. This was equivalent to a baling machine operator. However, the claimant has also performed vocationally relevant past work as a hand sander in workworking. This job required standing, walking, lifting and carrying furniture polish weighing up to 25 pounds. This is also unskilled and requires light exertion. The only restrictions on the claimant is inability to lift over 30 pounds and repetitive bending and stooping. However the claimant retains the functional ability to perform his past job as a sander. This would be either as performed in his particular work situtation or as it is characteristically performed in the National economy. Since he would be capable of returning to this past work, as a sander, no disability is found.

This revises the prior determination of 11/6/71.

(INITIAL AND DATE)

DISABILITY EXAMINER SA	DATE	REVIEW PHYSICIAN SA	DATE	DISABILITY EXAMINER BDI	DATE	DISABILITY EXAMINER BDI	DATE
[illegible]	8/4/72	[illegible]	8/7/72			[illegible]	5/11/72

FORM SSA 834
(6-71)

FOLDER

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
BALTIMORE, MARYLAND 21241

141

BUREAU OF
DISABILITY INSURANCE

REFER TO:
DI:R:3J
582-26-9405

AUG 2 2 1972

NOTICE OF RECONSIDERATION DETERMINATION

Mr. Felix Rojas Gonzalez
5611 Kings Highway
Brooklyn, New York 11203

Dear Mr. Rojas Gonzalez:

In view of your request for reconsideration, all the information about your claim has been carefully evaluated. It has been determined that the previous decision was proper under the law.

When you filed your application for disability insurance benefits, you stated that you became unable to work in June 1971, at age 50, because of two broken bones in your back. According to our records you have 2 years of education and have worked as a packing machine operator.

The medical evidence in your case includes hospital reports and the results of a special examination. The reports show that you injured your back as the result of an accident. X-ray studies of your back show no evidence of bone abnormalities. Physical examination reveals no serious nerve damage or significant loss of motion which would restrict your ability to walk, stand, or use your arms and hands. While we realize that you may experience some discomfort at times, the evidence does not establish that your condition is severe enough to prevent the performance of all gainful work consistent with your age, education, and experience.

If you believe that the reconsideration determination is not correct, you may request a hearing before a hearing examiner of the Bureau of Hearings and Appeals. If you want a hearing, you must request it not later than 6 months from the date of this notice. You should make your request through any social security office. Read the enclosed leaflet BHA-1 for a full explanation of your right to appeal.

Robert J. Duvall
Director, Division of Reconsideration

Enclosures (2)

BBass:jwaldhauser 8-21-72

Exhibit 6(2 pp) 8/21/72

ADDITIONAL INFORMATION ABOUT YOUR RECONSIDERATION DECISION

Who reviewed your claim

Your claim was thoroughly re-evaluated by a physician and a disability examiner in your State agency which works with us in making disability determinations. This new evaluation was then independently reviewed in the Social Security Administration.

What is the definition of disability

A person may be considered disabled only if he is unable to perform any substantial gainful work due to a medical condition which has lasted or can be expected to last for a continuous period of at least 12 months. His impairment must be so severe as to prevent him from working not only in his usual occupation but in any other substantial gainful work considering his age, education, training and work experience.

Findings of other government and private agencies regarding disability as well as the conclusions of attending physicians are carefully considered in reaching a determination as to whether or not a person is disabled for social security purposes. To be eligible under social security, however, the disability requirements specified in the Social Security law must be met.

What are your further rights

If you disagree with this reconsideration decision, you may request a hearing as explained in this letter. (This is not a decision as to whether benefits will be payable to you at retirement age.)

If your condition should get worse, and prevent you from doing any substantial gainful work, you should get in touch with your social security office about whether you could be entitled to disability benefits.

If you have questions about your claim, you should get in touch with any social security office. Most questions can be handled by telephone or mail. If you visit an office, however, please take the enclosed letter with you.

BEST COPY AVAILABLE

Form SS-5 PR
U. S. TREASURY DEPARTMENT
INTERNAL REVENUE SERVICE
(Revised 9-50)

Solicitud Para Número de Cuenta del Seguro Social

Bajo la Ley Federal de Contribuciones de Seguros
(Lea instrucciones al dorso antes de llenar la forma)

582 26-9405
No escriba en el espacio de arriba

LLENE TODOS LOS ITEMS. LLENE EN LETRA DE MOLDE EN TINTA NEGRA O AZUL OSCURO, O EN MAQUINILLA. SI NO SABE LA INFORMACIÓN SOLICITADA EN CUALESQUIERA DE LOS ITEMS, ESCRIBA "NO SÉ."

1 ESCRIBA EN LETRA DE MOLDE EL NOMBRE QUE USARÁ CUANDO SE EMPLEE — NOMBRES: Félix Gonzalez — APELLIDO: Rojas

2 DIRECCIÓN POSTAL (CALLE Y NÚM., APARTADO O RFD) (CIUDAD) (ESTADO): Bª Almirante Sur - Vega Baja P.R.

3 NOMBRE COMPLETO QUE RECIBIÓ AL NACER: "Same"

4 EDAD EN SU ÚLTIMO CUMPLEAÑOS: 28

5 FECHA DE NACIMIENTO (MES) (DÍA) (AÑO): "No sé" 23

6 SITIO DE NACIMIENTO (CIUDAD) (PAÍS): Bª Frontón, Ciales, P.R.

7 NOMBRE COMPLETO DEL PADRE, AUNQUE HAYA MUERTO: Félix González López

8 NOMBRE COMPLETO DE SOLTERA DE LA MADRE, AUNQUE HAYA MUERTO: Rosa Rojas

9 SEXO: (MARQUE (X) CUÁL) HOMBRE [X] MUJER [ ]

10 COLOR O RAZA: (MARQUE (X) CUÁL) BLANCO [X] NEGRO [ ] OTRO [ ]

¿HA SOLICITADO ANTES O HA TENIDO NÚMERO DEL SEGURO SOCIAL O DEL RETIRO FERROVIARIO? (MARQUE (X) CUÁL) SÍ [ ] NO [X] NO SÉ [ ]

11 SI SU CONTESTACIÓN ES "SÍ" INDIQUE LA CIUDAD Y EL ESTADO DONDE SOLICITÓ Y FECHA

ESCRIBA TAMBIÉN SU NÚMERO DEL SEGURO SOCIAL SI LO SABE

12 NOMBRE COMERCIAL DEL PATRONO. SI DESEMPLEADO, ESCRIBA "DESEMPLEADO": "Desempleado"

DIRECCIÓN DEL PATRONO (CALLE Y NÚM.) (CIUDAD) (ESTADO)

FECHA DE HOY: Sept. 17 de 1951

14 FIRME SU NOMBRE COMO USTED ACOSTUMBRA (NO USE LETRAS DE MOLDE): Felix Gonzalez Rojas

No escriba en este espacio

AL COMPLETAR ESTA SOLICITUD DEVUÉLVALA A EL SOCIAL SECURITY ADMINISTRATION, SAN JUAN

16—62911-1

APPLICATION FOR SOCIAL SECURITY AND TAX ACCOUNT NUMBER
(Or Replacement of Lost Card)

Information Furnished On This Form Is CONFIDENTIAL

582-26-9405
DO NOT WRITE IN THE ABOVE SPACE

See Instructions on Back. Print in Black or Dark Blue Ink or Use Typewriter.

1 Print FULL NAME YOU WILL USE IN WORK OR BUSINESS — (First Name) Felix — (Middle Name or Initial — if none, draw line) — (Last Name)

2 Print FULL NAME GIVEN YOU AT BIRTH: Same

3 DATE OF BIRTH (Month) (Day) (Year)

4 PLACE OF BIRTH (City) (County) (State): Ciales, Puerto Rico

5 AGE ON LAST BIRTHDAY

6 SEX: MALE FEMALE

7 COLOR OR RACE: WHITE NEGRO OTHER

8 MOTHER'S FULL NAME AT HER BIRTH (Her maiden name): Rosa Rojas

9 FATHER'S FULL NAME (Regardless of whether living or dead)

10 HAVE YOU EVER BEFORE APPLIED FOR OR HAD A SOCIAL SECURITY, RAILROAD, OR TAX ACCOUNT NUMBER? YES NO DON'T KNOW

IF ANSWER IS YES PRINT THE STATE IN WHICH YOU FIRST APPLIED AND WHEN (State) (Date)

PRINT YOUR ACCOUNT NUMBER IF YOU KNOW IT (Account Number): 582-26-9405

11 YOUR MAILING ADDRESS (Number and Street) (City) (State) (ZIP Code)

TODAY'S DATE

13 SIGN YOUR NAME AS YOU USUALLY WRITE IT

(Have you completed all 13 items?)

Return completed application to nearest SOCIAL SECURITY ADMINISTRATION DISTRICT OFFICE

TREASURY DEPARTMENT Internal Revenue Service
Form SS-5 (Revised 7-63)

Exhibit 7

FORM SSA 784

EARNINGS RECORD - P.I.A. DETERMINATION

1 ACCOUNT IDENTIFICATION

ACCOUNT NUMBER	SOC SEC	NAME	SEX	DATE OF BIRTH MO	DAY	YR	P
582 24 9405	REG	ROJAS,	M	04	05	21	
MULTIPLE ANS	BOPA	GONZAL		05		22	

PERTINENT DATES

FILING MO	DAY	YR	DEATH MO	DAY	YR	ONSET MO	DAY	YR	ELECTION MO	YR	REQUEST MO	DAY	SCIP MO	DAY
09	09	71				06	09	71			09	11	09	11

12 BOPA SIGNALS

CA	ED	X	NIP NYE	CR IND EM	CR IND OC	BE AG INV	$	FB IND	DESK	DAY CODE	SEQ NO.	ECP CODE	CASE CODE	DE	181	BLOCK NUMBER	SV SEL IND
										AA	18517	26	9R		EA	91115	N

ESTABLISHED DISABILITY PERIOD

LAG INFORMATION

TYPE	PERIOD	AMOUNT USED	TYPE	PERIOD	AMOUNT USED	TYPE	PERIOD	AMOUNT USED	TYPE	PERIOD	AMOUNT USED	TYPE	PERIOD	AMOUNT USED	YR	LDNW

MILITARY SERVICE

FROM	TO	FROM	TO

2 EARNINGS RECORD DATA

QUARTER OF COVERAGE TESTS

REQUIRED QC FULL	YR	SPEC $	MO	MAS QC	SIMP QC	MAX QC	C/I	FIRST ELIG	DISABILITY MET 20/40	AGE 31	NON EX 20/40	AGE 31
									YES	N/A	YES	

QC AND EARNINGS TOTALS

TOT SE QC	TOT AG QC	WAGE QC AFTER 46	AFTER 50	TOTAL EARNINGS AFTER 1936	TOTAL EARNINGS AFTER 1950
		51	51	32018.67	32018.67

YR	EARNINGS	U	QC/SM	YR	EARNINGS	U	QC/SM	SE	AG	DMW	YR	EARNINGS	U	QC/SM	SE	AG	DMW	YR	EARNINGS	U	QC/SM	SE	AG	DMW
37				46							4200 55			NNNN	0	0		64	3019.96	H	CCCC	0	0	
38				47							56	20.00	X	NNNN	0	0		65	1788.34	H	CCCC	0	0	
39				48							57	1055.53	X	NCCC	0	0		6600 66	1263.00	H	CCCN	0	0	
3000 40				49							58	2246.67	H	CCCC	0	0		67	2399.19	H	NCCC	0	0	
41				50							4800 59	2420.47	H	CCCC	0	0		7800 68	3470.06	H	CCCC	0	0	
42				3600 51							0 60	1600.25	H	CCCC	0	0		69	3755.28	H	CCCC	0	0	
43				52							0 61	1790.48	H	CCCC	0	0		70	2070.75	H	CCCN	0	0	
44				53							NNNN 0 62	2663.22	H	CCCC	0	0		71			NNNN	0	0	
45				54							NNNN 0 63	2455.47	H	CCCC	0	0		72						

3

THE BENEFIT DATA IN BLOCKS 2, 4 AND 5 ARE CORRECT ACCORDING TO THE LAW ON THE BASIS OF THE RECORDS OF THE SOCIAL SECURITY ADMINISTRATION AND RECORDS RECEIVED FROM THE RAILROAD RETIREMENT BOARD.

WILLIAM E. HANNA, JR.
DIRECTOR

BY R. Martinez
CORR BLKS ZBS

TYPE OF ACTION: DIB

DATE 09/15/71

13 BOPA REMARKS

20/40 DLM 03/31/75

AMWH 172.00

FULLY INS RIB UNIT D2

9 PERTINENT RRB INFORMATION

NAME	DB MO	DB YR	YLW	1937 TO DATE SM	1937 TO DATE COMPENSATION	1937 - 1946 SM	1937 - 1946 COMPENSATION	GROSS RESIDUAL	INV	IZB	ANN	REL	ELM	RR 98	RR JUR	37 TO DB	37-46 DB	MED EV	ALL PRE 51	RR SUR	RR SPO

4 BENEFIT COMPUTATIONS

	TYPE	FIRST BASE YR OR SD	LAST BASE YR OR CD	DIVIDEND	DISAB BASE YRS EXCL	ELAPSED PD OR DO YRS	DM	I/Y	MS MOS INCL	PIA RETRO	PIA CURR	LUMP SUM	FIRST ENT MO	RED MOS	REDUCED BENEFITS RETRO	REDUCED BENEFITS CURR
DIB	NS 65 DIS EX	1951	1971	3201#.67	NONE	51-70	180				121.00L		01/72			
TOTAL	NS 65	121.00														

5 BOPA EXAMINER

6 DO, PC OR BO

10 DO, PC OR BO REMARKS

144

Exhibit 8

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION

Form Approved.
Budget Bureau No. 72-R0554

REPORT OF DISABILITY INTERVIEW
(Write Legibly)

OFFICE: Bxra Hall
DATE: Sept 9/71 145

CONTACT MADE: ☒ IN PERSON ☐ TELEPHONE
PLACE OF CONTACT: ☒ DO ☐ CS ☐ HOME ☐ OTHER

ACCOUNT NUMBER: 582-26-9405
CLAIMANT'S NAME: Felix Gonzalez Rojas
WAGE EARNER'S NAME (If not the claimant):
PERSON(S) CONTACTED: ☒ CLAIMANT ☐ OTHER (If other, show name, address and relationship to a claimant.)

NATURE OF INJURY OR ILLNESS	CURRENT AGE	HIGHEST GRADE COMPLETED	OTHER TRAINING
Back injury	50	2nd	None

JOB TITLE (Principal occupation)	TYPE OF BUSINESS OR INDUSTRY	INTERVIEWER'S SIGNATURE	
~~Packer~~ Packing machine operator	clothings	L Farias	☒ CRT ☐ FR ☐ OTHER

1. ONSET OF IMPAIRMENT	a. DATE INJURY OR ILLNESS FIRST BOTHERED CLAIMANT	b. DATE CLAIMANT STOPPED WORKING	c. AOD
	6/9/71	6/9/71	6/9/71

Describe effect of impairment on work when condition first bothered claimant.
- Symptoms
- Job duties
- Working conditions
- Attendance

He fell down in building floor about 25ft. and broke two bones in back on 6/9/71 and has been unable to work since then.

Describe significant changes (with dates) until work stopped.
- Symptoms
- Job duties
- Working conditions
- Attendance

Give claimant's reasons for stopping work.

Unable to work due to injury.

Explain if AOD later than date claimant stopped work.

Exhibit 9 (1 pp)

Has claimant worked since the alleged onset date? *(If "Yes," complete Form OA-D821.)* ☐ YES ☒ NO

If any apply, the decision will most likely rest on the medical reports or SGA.

CHECK ANY OF THE FOLLOWING THAT APPLY *(If any of the items are checked—Do Not Complete pages 2, 3, or 4.)*

- ☐ Is engaging in SGA
- ☐ Alleges progressive cancer
- ☐ Has lost a leg because of diabetes or Buergers disease
- ☐ Is hospitalized for a condition related to the alleged disability
- ☐ Is unable to speak, or to see, or to hear
- ☐ Has lost use of a leg because of a fractured vertebrae
- ☐ Loss of use of at least two limbs

FORM SSA-401 (12-67) (If Additional Space is Needed, Use Form OAC-5002.)

Exhibit No. 1 (1 pp)

II. PROGRESSION OF CONDITION

Have there been any changes in symptoms, physical limitations, or activities since work stopped? ☒ Yes ☐ No 146

He's in great pain

If yes, describe all changes in condition (with dates) since work stopped.

III. EFFECTS OF CURRENT CONDITION

Constant back pain and left arm injured
He can't sit for too long, can't stand for too long either; only feels good when he lays down.
Can't do any lifting
He takes brown pills 3 times a day, special massage treatments on back 3 times a week at doctor's office. Arm in warm water (also in doctor's office)

Describe current condition
- Symptoms—Type, frequency, severity
- Normal Activity limitations
- Other limitations

Physician placed limitations
- Bed rest
- Special therapy
- Diet
- Restricted activity
- Etc.

IV. DAILY ACTIVITIES

Wakes up about 8:00 AM, eats breakfast and takes short walk then returns and lies down for 10 to 15 min, stands up for awhile, sits down and watches TV for 10 to 15 mins, and lies down again, continues same routine all day, goes to sleep about 8:00 PM. Rarely goes visiting and rarely has visitors. No problem getting dressed. Someone else does housecleaning. Sometimes goes out. Lives in two family house, two flights up (no elevator) Can shop, but

Describe activities of a typical day
- Physical
- Mental
- Contact with others

Describe assistance required in caring for personal needs.

Describe current living arrangements.

CHECK ANY OF THE FOLLOWING THAT APPLY (If any of the items are checked, complete Observations (Section VII) and Omit Sections V and VI Only)

- ☐ Is house confined because of a physical impairment
- ☐ Months after stroke claimant has weakness of limbs, or severe speech or memory defect with marked loss of use of one limb
- ☐ Arthritis with gross deformity of 2 or more limbs
- ☐ Parkinson's disease with marked tremors or propulsive gait.
- ☐ Multiple sclerosis with staggering gait, marked tremors or visual difficulties
- ☐ Other severe, observable limitations (Describe under Observations (Section VII).)

Describe the nature of the impairment and observations are needed to supplement the medical reports.

(If Additional Space Is Needed Use Form OAC-[illegible])

has if delivered

V. WORK EXPERIENCE

List all types of jobs held during 15 years before onset
- Job title
- Approximate dates worked

List all job titles and dates worked since claimant began working where claimant
- Is age 55 or older, and
- Has 6th grade education or less, and
- Performed only arduous unskilled labor

In PR he was a farmer Came to NY 15 yrs ago

1956-1963 - mattress cutter

1963-64 - Furniture polisher (tables & chairs)

65 (present) 6/71 he was: 1- ~~[illegible]~~ 2- packing machine operate. see item b

Did claimant's last job before onset involve an occupation different from the principal job? (If "Yes," describe in Section VI of a separate SSA-401.) ☐ Yes ☒ No

VI. PRINCIPAL JOB (Vocational Description)

A. JOB IDENTIFICATION

APPROXIMATE DATES WORKED	HRS./DAY	DAYS/WEEK	RATE OF PAY OR AVERAGE EARNINGS
1965 - 6/71	8½	5	$ 91.00 PER week

B. PHYSICAL DEMANDS

Describe each "Yes" item in terms of:
- Weight
- Distance
- Time
- Frequency
- Etc.

1. Lifting ☒ YES ☐ NO How much in lbs.? 50 How often? 40 times per day How High? 5½ ft.

2. Carrying ☒ YES ☐ NO How much in lbs.? 50 - 100 How often? 40 times a day How far? 5 ft.

3. Pushing/pulling ☐ YES ☒ NO How much in lbs.? ____ How often? ____ How far? ____

4. Standing ☒ YES ☐ NO How much time/day? all day

5. Walking ☒ YES ☐ NO How much time/day? all day

6. Sitting ☐ YES ☒ NO How much time/day? ____

7. Climbing ☒ YES ☐ NO How high? 1 flight How often? 3 or 4 times

8. Stooping, bending and/or kneeling ☐ YES ☒ NO How often and/or how long? ____

Use space for narrative description of physical demands where:
- Items above are not appropriate
- Supplemental description of item(s) would be helpful (e.g., human or machine assistance required to move heavy objects.)

9. Describe arm and hand manipulation in terms of (1) degree of coordination needed, (2) whether movements are gross or fine, (3) how often, and (4) how long.

no great degree of coordination
gross movements all day

10. Driving ☐ YES ☒ NO How often and/or how long?

(If Additional Space Is Needed, Use Form OAC-5002)

VI. PRINCIPAL JOB (Vocational Description) – continued

C. WORKING CONDITIONS

☐ Dust ☐ Noise ☐ Exposure to Elements ☑ Extremes in Temperature ☐ Work Pressure ☐ Dampness
☐ No adverse working conditions ☐ Other

Describe each item checked except "No adverse working conditions"

Sometimes it was too hot

D. JOB DUTIES

Describe fully each of the duties performed by the claimant in a typical day, including the amount of supervision received.

Will take wet clothes from a container and place it into dryer
take out of dryer
also would put into machine which would press it together
Fill boxes with 50 lbs. clothes and tie it up, he would then
take boxes and place into hole, to be taken to trucks

E. REQUIRED SKILLS

1. Training–other than on-the-job received ☐ Yes ☑ No
2. Special qualifications or skills required ☐ Yes ☑ No
3. Supervision of others required ☐ Yes ☑ No

Describe all "Yes" answers fully.

VII. OBSERVATIONS

Check each item to the left to indicate whether or not any difficulty was observed.

Sight	☐ Yes	☑ No	Hearing	☐ Yes	☑ No	Comprehending	☐ Yes ☐ No
Reading	☐ Yes	☑ No	Use of hands and arms	☑ Yes	☐ No	Breathing	☐ Yes ☑ No
Responding	☑ Yes	☐ No	Writing	☐ Yes	☑ No	Sitting	☑ Yes ☐ No
			Speaking	☑ Yes	☐ No	Walking	☑ Yes ☐ No
						Other	☐ Yes ☐ No

Speaks only Spanish, jumps from one subject to another
Bruise on left arm

Describe fully
- General appearance
- Behavior
- Outward attitude
- Circumstances surrounding the interview
- ALL ITEMS CHECKED "YES."

Sometimes didn't seem to understand what we wanted would answer different from what was asked
Can't sit for too long and can't stand for too long, was constantly getting up and sitting down. Can't keep still.

Exhibit 9

(If Additional Space is Needed, Use Form OAC-5002.)

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION

Form Approved
Budget Bureau No. 72-R0776

REQUEST FOR WORKMEN'S COMPENSATION INFORMATION
(Please see Instructions on Reverse)

149

I. IDENTIFICATION OF EMPLOYEE (To be completed by Social Security Administration)

TO:

MR. STUART GRATZ
EMPLOYERS COMMERCIAL UNION COMPANIES
127 JOHN ST.
N.Y. N.Y. 10038

1. NAME OF EMPLOYEE: FELIX GONZALEZ ROSAS

2. ADDRESS: 1705 PARK PL. BROOKLYN N.Y. 11233

3. SOCIAL SECURITY NUMBER: 552-26-9105

4. WORKMEN'S COMPENSATION CLAIM NUMBER: Y2-255777

5. EMPLOYER'S NAME AND ADDRESS
STANDARD WIPING MATERIALS INC.
615 DEAN ST.
BROOKLYN N.Y. 11238

The information requested in Part II below is needed by the Social Security Administration to process a claim based on the account of the above employee.

SIGNATURE OF SSA OFFICIAL: [signature]

TITLE: CR

DATE: 9/9/71

II. INFORMATION REQUESTED (To be completed by Workmen's Compensation Agency or Insurance Carrier Official)

6. HAS THE EMPLOYEE BEEN AWARDED WORKMEN'S COMPENSATION PAYMENTS, EITHER AS PERIODIC PAYMENTS OR AS A LUMP-SUM SETTLEMENT? ☐ YES ☒ NO

7. IF "YES," COMPLETE A AND OR B, AS APPROPRIATE.

A. PERIODIC PAYMENT TO WORKER (If a break in payment occurred, enter dates in "Remarks" below.)

(1) Date began 6-9-71

(2) Date ended or expected to end _____
- a. ☐ Worker returned to work
- b. ☐ Permanent rating pending
- c. ☐ Worker paid up to State limit
- d. ☐ Award appealed
- e. ☐ Other (Specify below)

(3) Weekly amount $ 61.03
(Do not include any payments made direct to dependents.)

(4) Attorney fees and related expenses authorized $ _____

B. LUMP-SUM PAYMENT

(1) Date of award _____

(2) Gross amount $ _____

(3) Represents settlement at $ _____ per week for _____ weeks beginning _____ (date)

(4) Payment includes:
- a. Medical expenses (including future medical expenses) $ _____
- b. Attorney fees and related expenses authorized $ _____

(5) Worker's average weekly wage $ _____

8. TYPE OF AWARD (Check appropriate box(es))
☐ TEMPORARY PARTIAL ☒ TEMPORARY TOTAL ☐ PERMANENT PARTIAL ☐ PERMANENT TOTAL

9. DATE OF INJURY: 6-6-71

REMARKS: (Attach a separate sheet if necessary)

RETURN TO:
SOCIAL SECURITY ADMINISTRATION
345 Adams Street
Brooklyn 1, New York

345 Adams Street
Brooklyn 1, New York

SIGNATURE OF OFFICIAL: [signature]

TITLE: Claims Assistant

DATE: 9-14-71

FORM SSA-1709 (11-69)

(Over)

Exhibit 10 (260)

INSTRUCTIONS FOR WORKMEN'S COMPENSATION AGENCY OR INSURANCE CARRIER OFFICIAL

The information requested on the reverse side of this form is needed in order to determine the proper amount of disability insurance benefits that may be payable under the Social Security Act to the employee named in Item 1.

1. If the employee has been awarded workmen's compensation payments--

   - Complete Item 7A if the employee received or is receiving periodic payments. Complete Item 7B if the employee received a lump-sum payment. Complete 7A *and* 7B if the employee was paid both periodic checks and a lump-sum amount. If no payment has been made under the award, give the reasons under "Remarks." The amount shown in 7A, item 3 or 7B, item 2 should reflect only payments made to the worker, including payments to him on behalf of dependents. Do not include payments made direct to the dependents on their own behalf.

   - Return the top copy of this form to the address shown in the lower left block.

   - Retain the second copy in your files for use in notifying the Social Security Administration of any change in the employee's workmen's compensation rate.

2. If the employee has filed a claim for workmen's compensation but has not received any payments and a final decision has not yet been made on his claim--

   - Check "No." in question 6 and return the top copy of the form to the address shown in the lower left block.

   - Retain the second copy in your files for use in notifying the Social Security Administration when a decision has been made.

3. If the employee has not filed a claim for workmen's compensation--

   - Indicate "No claim filed" in "Remarks" and return the top copy of this form to the address shown in the lower left block.

   - Retain the second copy in your files for use in notifying the Social Security Administration if an award is made to this worker as the result of a later claim.

NEW YORK MET. CLAIM DEPT.
SEP 13 1971
RECEIVED

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION

Form Approved.
OMB No. R-0554

MEDICAL HISTORY AND DISABILITY REPORT

(Please type or print clearly)

PLEASE COMPLETE THIS FORM. COMPLETE ANSWERS WILL AID IN THE PROMPT PROCESSING OF YOUR CLAIM. If you are filing on behalf of someone else, enter his or her name and social security number in the space provided and answer all questions.

NAME OF CLAIMANT	SOCIAL SECURITY NUMBER
Felix Rojas	582-26-9405

AGE LAST BIRTHDAY	EDUCATION (Highest grade completed)	TRADE SCHOOLS, SERVICE SCHOOLS OR JOB TRAINING
50		151

WHAT IS CLAIMANT'S ILLNESS OR INJURY?

Back injury

	MONTH, DAY, YEAR
I.A. When did your illness or injury first bother you?	6/09/71
B. When did your illness or injury finally prevent you from working?	6/09/71

C. Explain why you stopped working.

I had an accident at work. and since that date I haven't been able to wk.

D. Did you return to work after the date shown in I.B. above? ☐ Yes ☐ No

Answer this question only if the dates in I.A. and B. above are not the same.

E. Before you stopped working, did your illness or injury cause you to change:

Your job or job duties?	☐ Yes	☐ No
Your hours of work?	☐ Yes	☐ No
Your attendance?	☐ Yes	☐ No

(Explain how your condition caused these changes and show the dates the changes were made).

Exhibit 11 (Pp)

Exhibit No. 11 (Pp)

II.A. List the name, address and telephone number of the doctor who has your latest medical records. If you have no doctor, check here ☐

152

NAME Dr. Eugene J. Rogers ADDRESS 1664 - 41 st Brkn, NY 11218

AREA CODE AND TELEPHONE NUMBER (1E 6) 3689

HOW OFTEN DO YOU SEE HIM? DATE YOU FIRST SAW HIM 1/71 DATE YOU LAST SAW HIM 5/9/72

REASONS FOR VISITS

TYPE OF TREATMENT RECEIVED Exercises (Therapy) medication

B. Have you seen any other doctor since your illness or injury began? ..... ☐ Yes ☐ No
If "Yes," show the following:

NAME ADDRESS

AREA CODE AND TELEPHONE NUMBER

HOW OFTEN DO YOU SEE HIM? DATE YOU FIRST SAW HIM DATE YOU LAST SAW HIM

REASONS FOR VISITS

TYPE OF TREATMENT RECEIVED

If you have seen other doctors since your illness began, list their names, addresses, dates and reasons for visits on Page 5.

C. Have you been hospitalized or treated at a clinic for your illness or injury? ... ☐ Yes ☐ No
If "Yes," show the following:

NAME OF HOSPITAL OR CLINIC ADDRESS

PATIENT OR CLINIC NUMBER

WERE YOU AN INPATIENT? (STAYED AT LEAST OVERNIGHT) DATES OF ADMISSIONS DATES OF DISCHARGES

☐ Yes ☐ No IF "YES," .....

WERE YOU AN OUT PATIENT? DATES OF VISITS

☐ Yes ☐ No IF "YES," .....

REASON FOR HOSPITALIZATION OR CLINIC VISITS

TYPE OF TREATMENT RECEIVED

If you have been in other hospitals or clinics for your illness or injury, list the names, addresses, patient or clinic numbers, dates and reasons for hospitalization or clinic visits on Page 5.

D. Have you been seen by other agencies for your injury or illness? ☐ Yes ☐ No
(VA, Workmen's Compensation, Vocational Rehabilitation, Welfare, etc.)
If "Yes," show the following:

NAME OF AGENCY ADDRESS OF AGENCY

YOUR CLAIM NUMBER

DATES OF VISITS

TYPE OF TREATMENT OR EXAMINATION RECEIVED

If more space is needed, list the other agencies, their addresses, your claim numbers, dates, and treatment received on Page 5.

III. Has your doctor told you to restrict your activities in any way? ..... ☐ Yes ☐ No
If "Yes," give the name of the doctor and state what he told you about restricting your activities.

Don't do any lifting ... 153
I'm still under the doctor's
care

IV. Are your home duties, social activities or ability to care for your personal needs limited in any way? ..... ☐ Yes ☐ No
If "Yes," describe how and why they are limited.

I have to be resting most of the time.

V. List all regular jobs you have had in the last 15 years before you stopped working. (If you are 55 or older, AND have a 6th grade education or less, AND performed only heavy unskilled labor in the last 15 years, list all of the jobs you have had *since you began to work. If you need more space, use page 5.*)

JOB TITLE	TYPE OF BUSINESS	DATES WORKED (Month and Year) FROM	DATES WORKED (Month and Year) TO	DAYS PER WEEK	RATE OF PAY (Per hour, day, week, month or year)
Sewing machine operator	(garments)	3-yrs.	6/1/11	5	7.50 p.h.

VI.A. What was your usual job in the 15 years before you stopped working? (Usually this will be the kind of work you did for the longest period of time.) (JOB TITLE) Machine operator

B. Describe the duties of your usual job in your own words:

Machine operator - making boxes
bundles
pick-ups

(CONTINUES ON TOP OF PAGE 4,

VI.B. (Cont.)

C. Did your usual job involve:

1. The use of machines, tools, or equipment	☒ Yes	☐ No
2. Technical knowledge or special skills	☐ Yes	☒ No
3. Any supervisory responsibilities	☐ Yes	☒ No

Please Explain All "Yes" Answers.

packing machine

D. Please describe the kind and amount of physical activity involved in your job during a typical work day (circle number of hours in a day).

1. W[illegible]G	2. STANDING	3. SITTING
0 [illegible] 2 3 4 5 6 7 8	0 1 2 3 4 5 6 7 8	0 1 2 3 4 5 6 7 8

Lifting and carrying (describe what was lifted, how heavy it was, how often it was lifted, and how far it was carried).

Lifting - 10 lbs.

VII. How does your illness or injury now prevent you from performing your usual job duties as described in Item VIB?

I'm unable to do any lifting

If you need more space for any answer, use Page 5.

Knowing that anyone making a false statement or representation of a material fact for use in determining a right to payment under the Social Security Act commits a crime punishable under Federal Law, I certify that the above statements are true.

NAME (SIGNATURE OF CLAIMANT OR PERSON FILING ON HIS BEHALF)

SIGNATURE OF CLAIMANT OR PERSON FILING ON HIS BEHALF: Felix Gonzalez Rojas

DATE: 5-11-72

FOR SSA USE ONLY—DO NOT WRITE BELOW THIS LINE

NAME OF CLAIMANT	SOCIAL SECURITY NUMBER
Felix Rojas	582-26-9405

IX.A. Observations

156

W/E talks Spanish mainly. I recalled interviewing him (assisting in the interview) abt 6 months ago. W/E couldn't sit for too long. He was expectant, states he doesn't have any money since wk comp. stop paying him 2 months ago.

W/E stated that he never received a letter stating that his DIB claim was denied.

He was kindly dismissed

B. Claimant requires assis[illegible] ☐ Yes ☐ No
If "Yes," show name, address, phone number and relationship of interested person.

Nina Banks (landlady)
[illegible] PR. 07468
1705 Park Pl. Bklyn. N.Y 11233

-7 C

FOR SSA USE ONLY—DO NOT WRITE BELOW THIS LINE

C. 1. MEDICAL DEVELOPMENT—NON SD

157

SOURCE	DATE REQUESTED	DATE FOLLOW-UP	DATE RECEIVED

2. MEDICAL DEVELOPMENT—SD

SOURCE	DATE REQUESTED	DATE RECEIVED	CAPABILITY DEVELOPMENT NEEDED: ☐ YES ☐ NO ☐ DO WILL UNDERTAKE ☐ SA SHOULD UNDERTAKE
SOURCE	DATE REQUESTED	DATE RECEIVED	CAPABILITY DEVELOPMENT NEEDED: ☐ YES ☐ NO ☐ DO WILL UNDERTAKE ☐ SA SHOULD UNDERTAKE
SOURCE	DATE REQUESTED	DATE RECEIVED	CAPABILITY DEVELOPMENT NEEDED: ☐ YES ☐ NO ☐ DO WILL UNDERTAKE ☐ SA SHOULD UNDERTAKE

D. To DO Interviewer or Reviewer:

- Disregard this item when a reconsideration request is being filed.
- For DO completed form. If any block, D1-D5 is checked by DO interviewer, omit sections III-VII of this form in accordance with CM 6513.9D.
- In reviewing a claimant-completed form, if it appears from the SSA-821, the complete SSA-401 or DO observation that a condition in D1-D5 is present, proceed in accordance with CM 6513.9D.

1. ☐ Is now working for more than the SGA earnings guideline described in CM 6403(a).
2. ☐ Is now in a hospital because of the disabling impairment. (Do not check if on convalescent leave or in a nursing home, or expects to be released from the hospital in the next 2 weeks.)
3. ☐ Has lost the complete use of 2 or more limbs.
4. ☐ Has lost a leg or a foot because of diabetes or circulatory disease.
5. ☐ Is unable to see, even with glasses.
   ☐ Is unable to hear, even with a hearing aid.
   ☐ Is unable to speak.

Exhibit 11

E. SSA 401 TAKEN BY
☒ PERSONAL INTERVIEW
☐ TELEPHONE ☐ MAIL

FORM SUPPLEMENTED ☐ YES ☐ NO
If "Yes," by
☐ PERSONAL INTERVIEW ☐ TELEPHONE ☐ MAIL

F. SIGNATURE OF INTERVIEWER OR REVIEWER

TITLE	DO OR BO	DATE
CT	[illegible]	5-11-[illegible]

cut along dotted line

BEST COPY AVAILABLE

• GPO : 1971 O - 442-349

REPORT OF CONTACT

(USE INK OR TYPEWRITER)

ACCOUNT NUMBER (and symbol): 582-26-9405 158

REVIEWING OFFICE: TO: NY P BIR CH KC SF DBS DFC SA

NAME OF WAGE EARNER OR SELF-EMPLOYED PERSON: Felix Rojas Gonzalez

PERSON(S) CONTACTED AND ADDRESS(ES): [X] WE OR SE PERSON [ ] OTHER (Specify)

CONTACT MADE: [ ] DO [ ] BO [ ] CS [ ] HOME [X] PHONE: [ ] OTHER (Specify)

DATE OF CONTACT: 5/23/72

SUBJECT:

OUT: PR 2-7468

PURPOSE: Clarify vocational background.

FACTS: Left message with Mrs. Banks, landlady, for return call.

Claimant returned SA call; friend, Mr. Alex Colon, acted as translator.

Claimant gave following information regarding work history: From 1956-1963 and 1965-1971 claimant stated he worked as a packaging machine operator binding together matress stuffing and garments into large bundles which were then transported to other areas or departments in factory. Claimant stated no special qualifications were needed for entry and duties were learned on the job. Claimant job consisted of loading, activating machine, and unloading machine which would compress materials into bundles of specified size, binding them together with wiring for easy transport. Bundles were then manually loaded onto a dolly and transported to next work station. Work characteristically involved standing, walking, as well as frequent lifting and carrying of 50-60 lb bundles constantly throughout the day.

From 1963-1964 (2 years) claimant stated he worked in a factory which manufactured wooden furniture including tables and chairs. No special qualifications were needed for entry and duties were learned on the job. Claimant stated

SIGNATURE

DISTRICT OFFICE

[ ] CR [ ] FR [ ] BR [ ] CLAIMS CLERICAL [ ] OTHER (Specify)

VOCATIONAL CONSULTANT

DATE OF REPORT

PAGE 1 OF 2

FORM SSA-5002 (4-70)

Exhibit 16

DO NOT WRITE IN MARGIN

REPORT OF CONTACT
(USE INK OR TYPEWRITER)

ACCOUNT NUMBER (and symbol): 582-26-9405 159

REVIEWING OFFICE: TO: NY P BIR CH KC SF DBS DFC SA

NAME OF WAGE EARNER OR SELF-EMPLOYED PERSON: Folix Rojas Gonzalez

PERSON(S) CONTACTED AND ADDRESS(ES): [X] WE OR SE PERSON [ ] OTHER (Specify)

CONTACT MADE: [ ] DO [ ] BO [ ] CS [ ] HOME [X] PHONE: [ ] OTHER (Specify)

DATE OF CONTACT: 5/23/72

SUBJECT: OUT: PR 2-7468

his job was to smooth parts of furniture using sandpaper and, on occasion, portabl sanding machine equipment. Physical demands included standing, walking, as well as lifting and carrying of furniture parts weighing up to approximately 25 lbs.

Mr. Rojas stated he cannot read in English. He is able to speak English although with some difficulty and can understand what is said to him although he does have some difficulty expressing himself.

NEXT ACTION: Vocational analysis.

DO NOT WRITE IN MARGIN

K. Grace

SIGNATURE

DISTRICT OFFICE

[ ] CR [ ] FR [ ] SR [ ] CLAIMS CLERICAL
[/] VOCATIONAL CONSULTANT
[ ] OTHER (Specify)

DATE OF REPORT 5/24/72

PAGE 2 OF 2

FORM SSA-5002 (4-70) sf VC, K 003 05/23 5/24

State of New York

WORKMEN'S COMPENSATION BOARD

NOTICE OF DECISION

DATE OF HEARING	DATE OF THIS NOTICE
5/22/72	5/24/72 mw

*WCB Case No.	Date of Accident	Social Security Number
07141924	6/9/71	592-26-9405

Carrier Case No.	Carrier Code
	910

160

Claimant

Felix Rojas
1705 Park Pl
Brooklyn NY

CLAIMANT

READ IMPORTANT INFORMATION ON REVERSE SIDE.

If case was "Continued" and continuing payment was directed it shall be made at the rate for the period stated and shall be continued thereafter until the employer or carrier has medical or payroll evidence of a change of condition and gives notice thereof to the Chairman, Workmen's Compensation Board, unless otherwise provided in the decision. A further hearing will be held in a "continued" case to determine the extent of further disability, if any.

* Employer

Standard Wiping Material Inc.
645 Dean St.
Bklyn NY

Lee Kirsch Lefkowitz
401 Broadway
NYC

After hearing on date stated above the following Decision and Award was made and duly filed this day.

AWARD: THE EMPLOYER AND/OR THE INSURANCE CARRIER ARE DIRECTED TO PAY AT ONCE

for disability over a period of			at rate per Week	the sum of	TO:
weeks	from	to			
41 2/5	6/9/71	3/24/72	$ 61.03	$ 2526.64	CLAIMANT LESS PAYMENTS MADE COVERING THIS PERIOD.
as lien on award payable by separate check by carrier to CLAIMANT'S REPRESENTATIVE OR ATTORNEY					
fee to DOCTOR for attendance at hearing					

DECISION: Case was Continued. Accident notice and causal relation established contussion abrasion on face cervicle spine thoracic spine. Average weekly wage of 91.55 established.

Exhibit 1 (5-71)

*If the WCB Case No. is preceded by "F" this decision is made under the Volunteer Firemen's Benefit Law and the liable political subdivision is deemed to be the "employer" of the volunteer fireman. In all other cases, this decision is made under the Workmen's Compensation Law.

C-23 (5-70)

JE Senior
Chairman

Exhibit B 13(2 pp.)

WORKMEN'S COMPENSATION BOARD

161

X Progress Report

asc No.	Carrier Case No.	Date of Injury
07141924	25578	6-9-71

		AGE	ADDRESS
NAME	Felix Rojas	50	1705 Park Place, Brooklyn
	Standard Wiping Mat. Co.		645 Dean St., Brooklyn
EMP.	Commercial Union		110 William St., N.Y.

Have you filed Form C-48, or other report setting forth history? yes

Was patient previously under the care of another physician for this injury? Yes

Is there any history or evidence of pre-existing injury, disease or physical impairment? NO

Compression Fract T-8 ? T-4, Fibromyositis Diffuse B

Nature of Treatment: Hot Packs, Ultrasound ------- Exercise

Date of your first treatment: 8-17-71 Date of your most recent treatment: 5-15-72 Are you continuing treatment? Yes

Resume limited work of any kind?
Date: 2-28-72

No heavy Lifting

Pt referred by Dr. _____

Park W., Brklyn, N.Y. 11215

Pt. referred to DVR - Requires follow-up

5-16-72 Eugene J. Rogers MD. 1664 41st St., Brooklyn, N.Y.

BEST TYPED COPY OF FOLLOWING PAGE FOR LEGIBILITY

COMPLETE ATTENDING PHYSICIAN'S REPORT

[ ] 10-DAY REPORT [X] FINAL REPORT

ADD OR TYPE — INCLUDE ZIP CODE IN ALL ADDRESSES

CASE NO.	CARRIER CASE NO. (If known)	DATE OF INJURY (Mo., Day, Yr.)	EMPLOYEE'S SOCIAL SECURITY NO.
011452	25578	6-9-71	

EMPLOYEE'S NAME (First, Middle, Last)	AGE	EMPLOYEE'S HOME ADDRESS (No., Street, City, State, Zip Code)
FELIX ROJAS	50	1705 PARK PLACE BROOKLYN

EMPLOYER'S NAME	EMPLOYER'S ADDRESS (No., Street, City, State, Zip Code)
SIGNBARD WIPING MAT Co.	645 DEAN ST BROOKLYN
EMPCOMM RETAIL UNION	110 WILLIAM ST N.Y.

OVER-ALL QUESTIONS, AVOID USE OF HIGHLITE TERMS SUCH AS "NORMAL"

1. Have you filed Form C-48, or other report, stating facts to-day? [X] YES [ ] NO

2. (a) State how injury occurred and give source of this information. If claim is for occupational disease, so state and give history and date of onset of related symptoms.

(b) Was patient previously under the care of another physician for this injury? [X] YES [ ] NO

3. Is there any history or evidence of pre-existing injury, disease or physical impairment? [ ] YES [X] NO

4. Present condition (include diagnosis, subjective complaints, objective findings, and any change since last report). If patient was hospitalized since last report, so state and give name and address of hospital.

COMPRESSION FRACT T-8 ? T-4, FIBROMYOSITIS DIFFUSE, BACK

5. Nature of treatment: HOT PACKS, ULTRASOUND (ELECTRIC), EXERCISE

Date of your first treatment:	Date of your most recent treatment:	Your treatment:
8-17-71	5-15-72	X

If treatment is continuing, estimate its probable duration.
If it has terminated, indicate reason.

6. Have you placed any permanent restriction, total or partial loss of function of a permanent member, permanent facial, head or neck disfigurement?

Describe

7. On what dates do you think patient was or will be able to resume:

(a) Resume limited work of any kind? Date: 2-28-72

(b) Resume his regular work? Date:

If patient is unable to do his regular work, but can do limited work, specify his abilities:

NO HEAVY LIFTING

8. In your opinion, was the occurrence described above (or in your previous report of this information) the competent producing cause of the injury and necessity (if any) for treatment?

9. Is rehabilitation treatment or services or evaluation therefor advised? [ ] YES [ ] NO

10. Is that (other) treatment, or services or evaluation, is advised, has it been [ ] YES [ ] NO

11. Enter here additional information of value, reason is not applicable.

PT REFERRED BY DR (ILLEGIBLE) PARK W, BKLYN N.Y 1215

PT REFERRED TO DVR — REQUIRES FOLLOW UP

Date	Typed Name of Physician	Signature of Physician	Address of Physician
5/11/72	EUGENE J ROGERS MD	(ILLEGIBLE)	1664 1ST ST. BROOKLYN N.Y.

Signature of Attorney or Physician

REPORT OF CONTACT
(Use ink or typewriter)

ACCOUNT NUMBER AND SYMBOL: 582-26-9405 **163**

TO: NY P BIR CH KC SF DBS DIO SA

REVIEWING OFFICE

NAME OF WAGE EARNER OR SELF-EMPLOYED PERSON: Felix Rojas Gonzalez

PERSON(S) CONTACTED AND ADDRESSES: [X] WE OR SE PERSON [ ] OTHER *(Specify)*

CONTACT MADE: [ ] DO [ ] BO [ ] SC [ ] HOME [ ] PHONE: [X] OTHER SA Office

DATE OF CONTACT: 6/8/72

SUBJECT

PURPOSE: Report of the State Agency Reconsideration Personal Interview.

FACTS: Claimant made a personal visit to the SA Office. As he is non-English speaking, interview was done in Spanish.

He states that he is seeing Dr. Rogers of Workmen's Compensation 3 times a week for heat treatments and massage. Now goes 1 x week. Last seen 6/7/72. Claimant is still taking pain medication because he still has severe pain in the entire spine. Dr. Rogers told him he could not lift 40 lbs. At one time, the doctor asked him to lift 20 lbs. and he wasn't able to because of pain. The claimant cannot walk, stand or sit for any length of time. He states he has no strength in either arm.

He lives alone in a Rooming House and when he goes shopping for groceries if the package is too heavy he has to let someone else carry it for him. During the day he sits or lies down intermittently. He goes to his doctor, 3 times a week, by subway. He has received no DVR services. He has done no work following his doctor's instructions.

On 6/27/72 he is to be examined by a Compensation doctor. His compensation benefits have been stopped for sometime now. (not 3½ mos

Exhibit 14 (B&P)

NEXT ACTION: Additional information is needed to [illegible] the

SIGNATURE

DISTRICT OFFICE

[ ] CR [ ] FR [ ] SR [ ] CLAIMS CLERICAL

[ ] OTHER *(Specify)*

DATE OF REPORT

PAGE 1 OF 2

FORM SSA-5002 (2-71)

Exhibit No. 1-A (B&P)

DO NOT WRITE IN MARGIN

REPORT OF CONTACT
(Use ink or typewriter)

ACCOUNT NUMBER AND SYMBOL: 582-26-9405 **164**

REVIEWING OFFICE — TO: NY P BIR CH KC SF DBS DIO SA

NAME OF WAGE EARNER OR SELF-EMPLOYED PERSON: Felix Rojas Gonzalez

PERSON(S) CONTACTED AND ADDRESSES: [x] WE OR SE PERSON [ ] OTHER *(Specify)*

CONTACT MADE: [ ] DO [ ] BO [ ] SC [ ] HOME [ ] PHONE: [x] OTHER SA Office

DATE OF CONTACT: 6/8/72

SUBJECT

severity and residual functional capacity. Therefore, an Orthopedic CE is required.

DO NOT WRITE IN MARGIN

SIGNATURE: E. [illegible]

DISTRICT OFFICE

[ ] CR [ ] FR [ ] SR [ ] CLAIMS CLERICAL
Disability Examiner
[x] OTHER *(Specify)*

DATE OF REPORT: 6/8/72

PAGE 2 OF 2

FORM SSA-5002 [illegible] 6 229 D5/3 6 9/[illegible] For EK:egk EGH 4

REPORT OF CONTACT
(Use ink or typewriter)

ACCOUNT NUMBER AND SYMBOL: 582-26-9405 165

REVIEWING OFFICE: TO: NY P BIR CH KC SF DBS DIO SA

NAME OF WAGE EARNER OR SELF-EMPLOYED PERSON: Felix Rojas-Gonzalez

PERSON(S) CONTACTED AND ADDRESSES: [X] WE OR SE PERSON [ ] OTHER (Specify)

CONTACT MADE: [ ] DO [ ] BO [ ] SC [ ] HOME [ ] PHONE [X] OTHER State Agency Office

DATE OF CONTACT: 7/14/72

SUBJECT

PURPOSE: Information regarding receipt of second CE-5 letter.

FACTS: Claimant stated he received duplicate letter on July 7. State Agency explained that mail crossed and that we were made aware of his appointment for CE examination on 7/6 after we had mailed out the second letter because we had not heard from him. He was told that he had no further responsibilities regarding any appointments at this time.

Claimant stated that when he was at the CE examination he was unable to lift up a 20 pound weight which doctor requested him to do.

He continues to see Dr. Rogers at Workmen's Compensation once a week. He goes today on Friday. He receives heat treatments. His workmen's compensation benefits were stopped several months ago but he could not give a reason why.

He is supported by Welfare Assistance and receives $74 every two weeks for food and clothing. His $80 a month rent is paid for also.

Besides working for the past 11 years as a press machine operator in the garment industry, claimant stated

DO NOT WRITE IN MARG

SIGNATURE

DISTRICT OFFICE

[ ] CR [ ] FR [ ] SR [ ] CLAIMS CLERICAL [ ] OTHER (Specify)

DATE OF REPORT

Exhibit 1 2 (5/3/73)

FORM SSA-5002 (2-71)

REPORT OF CONTACT
(Use ink or typewriter)

ACCOUNT NUMBER AND SYMBOL: 582-26-9405 166

REVIEWING OFFICE
TO: NY P BIR CH KC SF DBS DIO SA

NAME OF WAGE EARNER OR SELF-EMPLOYED PERSON: Felix Rojas-Gonzalez

PERSON(S) CONTACTED AND ADDRESSES ☒ WE OR SE PERSON ☐ OTHER (Specify)

CONTACT MADE: ☐ DO ☐ BO ☐ SC ☐ HOME ☐ PHONE: ☒ OTHER State Agency Office

DATE OF CONTACT: 7/14/72

SUBJECT

that prior to that we worked for seven years on a sugar cane farm and for at least five years on a tobacco farm. He has always done heavy work.

State Agency advised the claimant we will adjudicate claim upon receipt of consultative report and will ~~also request further information from Workmen's Compensation since he goes there regularly.~~

~~NEXT ACTION: WCB contact.~~

E. Killip

SIGNATURE

DISTRICT OFFICE

☐ CR ☐ FR ☐ SR ☐ CLAIMS ☐ CLERICAL
Disability Examiner
☒ OTHER (Specify)

DATE OF REPORT 7/14/72

PAGE 1 OF 2

DO NOT WRITE IN MARC

FORM SSA-5002 (2-71)

#6 374 D7/14 7/18 EK:enk RCH-4

REPORT OF CONTACT
(USE INK OR TYPEWRITER)

ACCOUNT NUMBER (and symbol) 583-26-9405 167

REVIEWING OFFICE
NY P BIR CH KC SF DBS DFC SA

NAME OF WAGE EARNER OR SELF-EMPLOYED PERSON
Felix Gonzales-Rojas

PERSON(S) CONTACTED AND ADDRESS(ES): ☐ WE OR SE PERSON ☐ OTHER (Specify)
Workmen's Compensation Board 07141924

50 Park Place, New York, N.Y.

CONTACT MADE: ☐ DO ☐ ∞ ☐ CS ☐ HOME ☐ PHONE: ☐ OTHER (Specify) Field

DATE OF CONTACT 8/2/72

SUBJECT:

PURPOSE: To obtain through a field trip complete medical findings from 6/71 to the present time.

FACTS: Report of Dr. Marvin Frider dated 6/21/71.

Report notes that the claimant fell from a platform striking his shoulder and head. Diagnosis is listed as cerebral concussion and abrasions on the face. There is a possible compression fracture body of T-8 and there is a cervical spinal sprain with cervical radiculitis. Treatment consists of bed rest, analgesics and muscle relaxants. Treatment is estimated as three months. The claimant is noted to be not working but that he should be able to resume his regular work in 9/71.

Report of Dr. Eugene Rogers dated 9/7/71. Diagnosis is listed as a possible compression fracture of T-8, probable also fibromyositis, diffuse, back. Also noted is epicondylitis of the left elbow. Treatment consists of hot packs, ultrasound and exercise. Treatment is expected to last about 6 weeks. An x-ray report by Dr. Leonard Ebin dated 9/29/71 indicates that there is no evidence of fracture or dislocation of the cervical spine and that the disc spaces appear normal. Examination of the dorsal spine revealed scoliosis to the right.

D. Campbell

Exhibit 16 (3?)

SIGNATURE D. Campbell

DISTRICT OFFICE

☐ CR ☐ FR ☐ SR ☐ CLAIMS CLERICAL ☐ OTHER (Specify)

DATE OF REPORT

PAGE 1 OF 3

FORM SSA-5002 (4-70) DC:oh M551 D8/2 T8/3 Exhibit N. (...)

DO NOT WRITE IN MARGIN

REPORT OF CONTACT
(USE INK OR TYPEWRITER)

ACCOUNT NUMBER (and symbol) 583-26-9405 . 168

REVIEWING OFFICE

NY P BIR CH KC SF DBS DFC SA

NAME OF WAGE EARNER OR SELF-EMPLOYED PERSON

Felix Gonzales-Rojas

PERSON(S) CONTACTED AND ADDRESS(ES): Workmen's Compensation Board ☐ WE OR SE ☐ OTHER (Specify) 07141924

CONTACT MADE: ☐ DO ☐ BO ☐ CS ☐ HOME ☐ PHONE: ☐ OTHER (Specify) Field

DATE OF CONTACT 8/2/72

SUBJECT:

There was no definite evidence of fracture noted and there were only minor productive changes in the mid-dorsal spine. The lumbosacral spine and pelvis reveale partial transitional vertebra at the lumbosacral articulation. The disc spaces were otherwise within physiological limits of normal. Impression listed is that there was no definite evidence of a fracture.

Report of Dr. Eugene Rogers dated 1/15/72.

Diagnosis is listed as compression fracture of T-8 and C-4 fibromyositis diffuse of the back. Treatment remains the same: Packs, ultrasound and exercise.

Report of Dr. Leonard Ebin dated 3/28/72. Radiological examination of cervical spine was within normal limits. The dorsal spine revealed no definite evidence of fracture; the disc spaces appeared to be within normal limits and scoliosis of the dorsal spine was noted. The lumbosacral spine and pelvis reveal no evidence of fracture or dislocation; the disc spaces were within normal limits and there were minor productive changes seen.

Report of Dr. Rogers dated 5/15/72. Diagnosis is listed as compression fracture

D. Campbell

DO NOT WRITE IN MARGIN

SIGNATURE

DISTRICT OFFICE

☐ CR ☐ FR ☐ SR ☐ CLAIMS CLERICAL
☐ OTHER (Specify)

DATE OF REPORT

FORM SSA-5002 (4-70) DC:eh M 551 D8/2 T8/3

REPORT OF CONTACT

(USE INK OR TYPEWRITER)

ACCOUNT NUMBER (and symbol): 583-26-9405 169

REVIEWING OFFICE

TO: NY P BIR CH KC SF DOS DFC SA

NAME OF WAGE EARNER OR SELF-EMPLOYED PERSON: Folix Gonzales-Rojas

PERSON(S) CONTACTED AND ADDRESS(ES): Workmen's Compensation Board ☐ WE OR SE PERSON ☐ OTHER (Specify) 07141924

CONTACT MADE: ☐ DO ☐ DO ☐ CS ☐ HOME ☐ PHONE: ☐ OTHER (Specify) Field

DATE OF CONTACT: 8/2/72

SUBJECT:

of t=8 and T-4, fibromyositis, diffuse of the back. Treatment remains the samo. The doctor notes that the claimant could resume limited work as of 2/28/72 but that he was to avoid heavy lifting.

(Office of the Referee dated 7/14/72 Memorandum of Decision--"After reviewing the entire record I find that the claimant has no further causily related disability and the case is closed.")

No further medical evidence is in file.

This is a true abstract of the written records taken from the Workmen's Compensati Board.

Exhibit 16

D. Campbell

SIGNATURE

DISTRICT OFFICE

☐ CR ☐ FR ☐ SR ☐ CLAIMS CLERICAL ☐ OTHER (Specify)

DATE OF REPORT

PAGE 3 OF 3

FORM SSA-5002 (4-70)

DC:eh M 551 D8/2 T8/3

DO NOT WRITE IN MARGIN

THE BROOKLYN CUMBERLAND MEDICAL CENTER 5/27

CLINICAL RECORD FACE SHEET

PATIENT'S NAME (LAST, FIRST, MIDDLE): Gonzalez Rojas, Felix

HOME ADDRESS: 1766 Sterling Place, Brooklyn, N.Y. Apt. 1

ROOM PHONE: None

☐ OWN HOM. ☒ SEMI-PVT ☐ PENT LEASE ☐ PVT ☐ WARD

ROOM NUMBER: Y-alc

SERVICE: Ortho.

DATE ADMITTED: 6-9-71

TIME ADMITTED: 7:45 P M

☐ MALE ☐ FEMALE

☐ SINGLE ☐ WIDOWED ☐ DIVORCED ☐ MARRIED ☒ SEPARATED

RACE: W

RELIGION: Cath.

BIRTHDATE: 50 Yrs.

BIRTHPLACE: P.R.

SOCIAL SECURITY NO: ? 170

CODE: C-6

OCCUPATION: Laborer

MOTHER'S MAIDEN NAME: Rosa Rojas

FATHER'S NAME: Felix Gonzalez

ATTENDING PHYSICIAN: Dr. Frieder

EMPLOYER'S NAME: ☐ PATIENT ☒ PARENT'S ☐ GUARDIAN'S

TIME EMPLOYED: 3 Yrs.

SPOUSE'S NAME: Lillie Gonzalez

TIME EMPLOYED:

EMPLOYER'S ADDRESS: 645 Dean St., Brooklyn, N.Y.

SPOUSE'S EMPLOYER: P.R.

NOTIFY IN CASE OF EMERGENCY — NAME: George Sarra RELATIONSHIP: Landlord

ADDRESS: S/A PHONE: ?

EMPLOYER'S ADDRESS:

PATIENT FROM TRANSFERS:

BLUE CROSS — NAME & ADDRESS OF EMPLOYER OR UNION IF APPLICABLE; CLAIM NUMBER; DATE OF ENTRY: 6-9-71; INSURANCE CO; POLICY HOLDER; ADDRESS; RELATIONSHIP; CERTIFICATE NUMBER; SUFFIX; EFFECTIVE DATE; RETIRED EMPLOYEE B.C. NO

MEDICARE — NUMBER; SUBSCRIBER'S NAME; DOES PATIENT HAVE MEDICAL COVERAGE PARTB ☐ YES ☐ NO; SENIOR CARE ☐ YES ☐ NO

MEDICAID — NUMBER; APPLICATION DATE; EXPIRATION DATE; APPLICATION OFFICE; NAME OF CASE WORKER

COMMERCIAL INSURANCE — NAME OF POLICY HOLDER; NAME OF INSURANCE CO; RELATIONSHIP; POLICY NUMBER; IF GROUP INSURANCE EMPLOYER'S NAME AND ADDRESS; IF THROUGH UNION NAME OF UNION; BOOK NUMBER

PREVIOUS HOSPITALIZATION: ☐ YES ☒ NO — HOSPITAL NAME; APPROX DATE

REFERRED BY: ☐ OPD ☐ EMERG ☐ DF

INITIALS: EW

ADMITTING DIAGNOSIS: Traumatic Scolosis of Thoraric Spine — CODE: C-6

FINAL DIAGNOSIS: Thoracic Scoliosis idiopathic — 738.9

& Tortuous — 805.

E827.

OTHER DIAGNOSIS: Chest Contusion

COMPLICATIONS:

OPERATIONS:

Exhibit 17 (BA)

DATE DISCHARGED: JUN 26 1971 — TIME DISCHARGED: AM

CONDITION ON DISCHARGE: ☐ RECOVERED ☐ IMPROVED ☐ UNIMPROVED ☐ DIED — DATE & TIME

AUTOPSY REQUESTED: ☐ YES ☐ NO — AUTOPSY AUTHORIZED: ☐ YES ☐ NO

SIGNATURE OF HOUSE STAFF _____ M.D.

SIGNATURE OF ATTENDING PHYSICIAN _____ M.D.

CHART COPY

Exhibit N. 17

BEST COPY AVAILABLE

The Brooklyn Hospital
121 DeKalb Avenue
Brooklyn 1, New York

171

LOPAS, FELIX GONZALEZ

6-9-71

160060

6-26-71

DR. FRIEDEN

Admitting Diagnosis: Compression fracture of dorsal vertebrae.
Cerebral concussion.

FINAL DIAGNOSIS: Same.

HISTORY: This 50 year old Puerto Rican male was transferred from another hospital after having fallen two stories on the job, striking his head and shoulders. He lost consciousness for what must be undetermined but transient period. There is no history of previous history of injury to the head or to the back.

Since awakening, he has had headaches and pain in the middle of his back.

PHYSICAL EXAM ON ADMISSION: Grossly normal neurologic examination and normal eyegrounds. There is pain and tenderness diffusely over the [illegible] at the scalplace and over the tops of both shoulders, with [illegible] tation over the thoracic and cervical spine. [illegible] most acute over the body of T3 and in the neighborhood [illegible]. X-rays disclosed old rotary scoliosis of the [illegible] of 17 and 17 cm. The weight is borne more anteriorly [illegible] vertebral bodies, at the T3 body.

COURSE IN THE HOSPITAL: The patient was placed on bed rest and [illegible] flammatory, analgesic and muscle relaxants [illegible]. On 6-8-71 he was taking increasing periods of walking about and had little considerable pain but demonstrated a great deal of improvement. He was discharged.

DR. FRIEDEN DICT:7-13-71

ROJAS, FELIX (PR2-7118) = 50
1705 PARK PL BKLYN 6-9-71 8-17-71
WCB 07141924 VS: STANDARD WIRING
645 DEAN ST BKLYN

50 yr old male slipped on floor fell backward + struck back of head. Subsequent DROUGHT PAIN TO BACK WHICH RADIATED TO L LEG. COMPLAINING OF CONSTANT PAIN IN LOWER NECK WORSE ON UPWARD GAZING. TENDERNESS C8 to T10 SPINOUS PROCESSES & PARASPINAL MUSCLES B/L AT. REFLEXES B/L EQUAL VIBRATORY SENSATION [illegible] B/L LONGER, LT THIGH CIRCUMFERENCE IS GREATER CALVES EQUAL IN CIRCUMFERENCE. ANKLES EQUAL 10, 100° B/L AT X-RAYS ARE REPORTED TO INDICATE SPIROMETRIC [illegible] COMPRESSED FRACT D-4

(2) [illegible] UPPER + MIDDLE TRAPEZII, [illegible]

SUBJECT: [illegible]

Exhibit 18

PROFESSIONAL QUALIFICATIONS

1. Physician's Name Rogers (Last) Eugene (First) J. (Middle) 173

2. Address 1664 41st Street

Brooklyn, NY 11218

3. Year of Birth (B): 1921

4. Medical Education (ME): State: Illinois

School: Chicago Medical School

Year of Degree: 1947

5. Year of License (L): 1948

6. American Specialty Boards (AB): American Board of Physical Medicine and Rehabilitation

7. Medical Specialties: Physical Medicine

8. Type of Practice (TOP): Full-time practice

9. National Scientific Medical Societies (SS): American Academy of General Practice, American Academy of Physical Medicine and Rehabilitation, Academy of Psychosomatice Medicine, American Geriatrics Society Inc.

10. Professorial Appointments (PA): State:

School:

Title & Current Status:

11. Other Information (e.g., Hospital Appointments):

12. Sources of Information: American Medical Directory
Year: 1967 Edition: 24th Page: 2419

Other Sources

FORM HA-526
(5-71)

Exhibit 19

IRWIN J. NELSON, M. D., F.A.C.S.
1401 OCEAN AVENUE
BROOKLYN, N. Y. 11230
CLOVERDALE 8-2588

174

July 15, 1972

Bureau of Disability Determinations
110 William Street
New York, N.Y. 10038

Re: Felix Rojas-Gonzales
1705 Park Place
Brooklyn, N.Y.
Soc.Sec. No: 583-26-9405

Gentlemen:

Per your request Mr. Felix Rojas-Gonzales was seen by me in orthopedic consultation on July 6, 1972. The patient is a 51 year old male who states that he was in relatively good health until June of 1971 when he fell 2 stories at work sustaining an injury to his head and shoulders. The patient denies any previous injury to the neck or back and states that at the time of injury he lost consciousness for an unde termined amount of time. The patient was initially taken to the Cumberland Hospital and was then transferred to the Brooklyn Hospital. The patient states he sustained fractures of the dorsal vertebrae and a concussion. The patient states he is 5'7" and weighs 125 pounds. He is able to sit for ½ hour, stand for 3 hours, walk approximately 4 blocks. The patient states he is unable to lift above 10 pounds but is able to use public transportation. The patient states he is presently under the care of Dr. Eugene Rogers and is undergoing a program of physiotherapy and diathermy.

EXAMINATION: Physical examination reveals an adult male able to ambulate on his heels and toes. There is a normal gait. Examination of the back reveals no scoliosis or deformity. There is spasm, however there is no tenderness over the sacroiliac joint. Forward flexion is possible to 55 degrees. Left lateral bend is possible to 20 degrees, right lateral bend to 20 degrees. There appears to be voluntary guarding of motion. Examination of the sacrum and coccyx is within normal limits. Straight leg raising is possible to 75 degrees on the left and 70 degrees on the right. The deep tendon reflexes, the ankle and knee jerks are present and equal bilaterally. There is no measureable atrophy of the quadriceps muscles or of the gastrocnemius muscles.

Exhibit 20(2 Pg)

IRWIN J. NELSON, M. D., F.A.C.S.
1401 OCEAN AVENUE
BROOKLYN, N. Y. 11230
—
CLOVERDALE 8-2588

175

Re: Felix Rojas-Gonzales -2- 7-15-72

The femoral and pedal pulses are present and equal bilaterally. There is no weakness ofthe dorsiflexors or the extensor hallucis longus of either lower extremity. Examination of the cervical spine reveals full flexion and extension. However there is restriction of rotation. There is a full range of motion of both shoulders, elbows and wrists. The deep tendon reflexes, the biceps and triceps are present and equal bilaterally. There is no intrinsic wasting of the hands noted. There is good grasp bilaterally. The remainder of the examination is not remarkable.

X-RAYS: X-rays AP and lateral views of the thoracic spine reveal a scoliosis with angulation and rotatory wedging.

CONCLUSION: This patient should avoid lifting above 30 pounds. He should avoid repetitive bending and repetitive stooping. The patient has no impairment of sitting, standing or walking. He has no impairment of either fine or gross manipulation of the hands.

Very truly yours,

Irwin J. Nelson, M.D.

IJN/fs

PROFESSIONAL QUALIFICATIONS

176

1. Physician's Name Nelson (Last) Irwin (First) (Middle)

2. Address 1401 Ocean Ave

Brooklyn, New York 11230

3. Year of Birth (B): 1934

4. Medical Education (ME): State: Illinois

School: Chicago Medical School

Year of Degree: 1960

5. Year of License (L): 1961

6. American Specialty Boards (AB): American Board of Orthopaedic Surgery

7. Medical Specialties: Orthopaedic Surgery

8. Type of Practice (TOP): Full-time specialty practice

9. National Scientific Medical Societies (SS):

10. Professorial Appointments (PA): State:

School:

Title & Current Status:

11. Other Information (e.g., Hospital Appointments):

12. Sources of Information: American Medical Directory

Year	Edition	Page:
1969	25	2656

EXHIBIT 21

Other Sources:

Exhibit No. 21

FORM HA-526
(9-71)

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

177

SOCIAL SECURITY ADMINISTRATION
Room 1201, 175 Remsen Street
Brooklyn, New York 11201

REFER TO:

BUREAU OF HEARINGS AND APPEALS

June 7, 1973

Mr. Benjamin H. Lipton
55 Morris Ave.
Malverne, L.I., N.Y. 11565

582-26-9405
(Social Security Number)

Dear Mr. Lipton:

Felix Rojas-Gonzalez has an application pending for social security disability benefits. A hearing on the claim is scheduled for Wednesday, the 20th day of June 1973 at 9:30 o'clock in Room 1201 of the ~~Brooklyn~~ Building, 175 Remsen St. (Number and Street), (City), ~~N.Y.~~ (State).

You are requested to give testimony as a vocational expert primarily to cover the period June 9, 1971 to date of hearing. Your presence throughout the hearing is desired since your testimony will be based, in part, on the testimony given by the claimant and any other witnesses, including a medical advisor if needed.

Enclosed are the exhibits (and a list of these exhibits) tentatively selected for inclusion in the record of this case. Also enclosed is an acknowledgment card for you to complete and sign. Please return the card and exhibits no later than June 19, 1973.

Sincerely yours,

Robert N. Leiner

Hearing Examiner
Robert N. Leiner
Administrative Law Judge

Enclosures:
23 exhibits
List of exhibits
Addressed return franked envelope
Form HA-504.1
cc: Name and address of representative or claimant

Felix Rojas-Gonzalez
5011 Kings Highway
Brooklyn, N.Y. 11203

Exhibit 22 (BH)

PLEASE SEE REVERSE SIDE FOR INFORMATION ON MATTERS UPON WHICH YOU WILL BE ASKED TO TESTIFY.

FORM HA-L8 (6-71)

CLAIM FILE

(Over)

Exhibit No. 7-1-

IMPORTANT INFORMATION

In order for an individual to be found disabled under the Social Security Act, he must have a medical impairment which prevents him from engaging in any substantial gainful activity. In some cases, medical considerations alone may justify a finding that the claimant is or is not disabled. In other cases, however, it is necessary to determine whether the claimant's impairment in fact results in his being unable to engage in *any* substantial gainful activity. In these cases a vocational expert may be called upon to testify.

Two basic questions will be presented to you at this hearing. The first question pertains to the kind of work, if any, the claimant is equipped to do in light of his prior work activity and residual functional capacities considering his age, education, training and experience. Your testimony will be predicated on varying assumptions, posed by the hearing examiner, with respect to the claimant's residual functional capacity. You will not be expected to testify as to whether or not the claimant is under a disability since the hearing examiner has the responsibility for deciding this ultimate legal issue. You should not express any opinion regarding the claimant's impairments and their effect on his functional capacity, since these are medical matters.

The second question is whether such work exists in the "national economy," i.e., whether it exists in significant numbers either in the region where the claimant lives or in several other regions of the country. You should be prepared to testify from personal knowledge gained from such sources as local USES offices and vocational surveys of businesses and industries, whether such surveys were made by you or by other vocational experts.

You will be requested to furnish the rationale for your opinions. In this regard, you should be prepared to support your views with occupational resource material, including published studies containing occupational information helpful in determining the extent to which vocational skills can be transferred from one type of work to others. In forming your judgment as to whether or not the claimant was able to transfer his vocational skills to any other types of work, please consider only work which the claimant could have performed after a normal period of training usually given to new employees rather than after extended vocational rehabilitation.

Questions may also be asked of you by the claimant or his representative.

2543

A-72-1809

AUG 27

1268

179

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE
SOCIAL SECURITY ADMINISTRATION
BUREAU OF HEARINGS AND APPEALS
744 Jackson Place
Washington 25, D.C.

RESUME' OF EXPERIENCE AND BACKGROUND

Please print or type all entries. Attach extra sheets as needed. Submit in duplicate.

Aug. 22, 1962
Date

1. NAME Lipton (Last) Benjamin (First) U. (Middle) Date of Birth Nov. 25, 1911

2. MAILING ADDRESS JOSEPH BULOVA SCHOOL OF WATCHMAKING
40-24 62 Street, Woodside 77, N. Y.

HOME: 55 Morris Avenue, Malverne, L. I., N. Y. 11565

3. PRESENT EMPLOYMENT

Present Employer Institution or Firm JOSEPH BULOVA SCHOOL OF WATCHMAKING

Date of First Employment In This Position October 1951

Your Position or Title Director

No. of Hours Worked Per Wk. 40 plus

Description of Your Duties Responsible for ADMINISTRATION, SUPERVISION and DIRECTION OF THE SCHOOL. See attached brochure.

4. PREVIOUS EXPERIENCE--Begin with your earliest employment in psychological area and continue chronologically. Do not include minor positions. Use additional sheets if necessary.

	Position or Title	Employed From	Employed To	Institution or Firm
(a)	Assistant Senior Training Officer	1-31-46	10-51	Veterans Administration
Duties	SEE EXHIBIT "A"			
(b)	Director	10-51	to Present	JOSEPH BULOVA SCHOOL OF WATCHMAKING
Duties				
(c)				
Duties				

Exhibit No. 3 (A)

5. EDUCATION

(a) Undergraduate

Institution	Degree	Date of Degree	Major Subject
Alfred University	B.S.	1932	Biology

(b) Graduate

Institution	Dates of Attendance	Degree	Major Field	Graduated Yes	Graduated No
Teachers College Columbia University	9-34 to 6-36	M.A.	Natural Sciences	YES	
Teachers College Columbia University	9-47 to 6-48		Introduction to measurement, Vocational Guidance Testing & Labor Problems Vocational Guidance		
SEE EXHIBIT "B"					

SEE EXHIBIT "A" New York University - Division of Public Service, Public Welfare Administration and Accounting

6. PUBLICATIONS

List publications with journal references.

REHABILITATI N OF THE SEVERLY DISABLED Journal of Rehabilitation Sept.- Oct. 195[illegible]

7. PROFESSIONAL RECOGNITION

Professional and honorary organizations, awards, special honors, State license or certificate, etc.

American Personnel Guidance Association, Executive member Committee For the Handicapped People-to-People Committee, Member of the Rehabilitation Centers and Facilities, Member of the President's Committee For Employment of the Handicapped AWARDS AND CITATIONS of the Veterans Administration, Paralyzed Veterans of America, People-to-People Committee

SEE ATTACHED BIOGRAPHICAL RESUME EXHIBIT "C"

8. CONSULTATIVE ACTIVITIES (PAST OR PRESENT)

Member of the Advisory Commission for the Queens Vocational High School, Long Island City, New York

Benjamin H. Lipton

Signature

Benjamin H. Lipton

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SOCIAL SECURITY ADMINISTRATION

181

Room 1201, 175 Remsen Street
Brooklyn, New York 11201

BUREAU OF HEARINGS AND APPEALS

REFER TO:

August 3, 1973

Mr. Benjamin H. Lipton
55 Morris Ave.
Malverne, L.I., N.Y. 11565

582-26-9405
(Social Security Number)

Dear Mr. Lipton:

Felix Rojas-Gonzalez has an application pending for social security disability benefits. A hearing on the claim is scheduled for Monday, the 24th day of Sept. 1973 at 9:30 o'clock in Room 1201 of the Brooklyn Building, 175 Remsen St. (Number and Street), (City), L.I. (State).

You are requested to give testimony as a vocational expert, primarily to cover the period June 9, 1971 to date of hearing. Your presence throughout the hearing is desired since your testimony will be based, in part, on the testimony given by the claimant and any other witnesses, including a medical advisor if needed.

~~Enclosed are the exhibits (and a list of these exhibits) tentatively selected for inclusion in the record of this case. Also enclosed is an acknowledgment card for you to complete and sign. Please return the card and exhibits no later than~~

The exhibits and exhibit list were previously mailed to you.

Sincerely yours,

Robert W. Leiner

Hearing Examiner
Robert W. Leiner
Administrative Law Judge

Enclosures:
~~exhibits~~
~~List of exhibits~~
~~Addressed return franked envelope~~
Form HA-504.1

cc: Name and address of representative or claimant
Diana Ortiz
The Legal Aid Society
11 Park Place
New York, N.Y. 10007

Exhibit 24 (2nd)

PLEASE SEE REVERSE SIDE FOR INFORMATION ON MATTERS UPON WHICH YOU WILL BE ASKED TO TESTIFY.

FORM HA-L8 (6-71)

CLAIM FILE

Exhibit No. 24 (Over)

IMPORTANT INFORMATION

In order for an individual to be found disabled under the Social Security Act, he must have a medical impairment which prevents him from engaging in any substantial gainful activity. In some cases, medical considerations alone may justify a finding that the claimant is or is not disabled. In other cases, however, it is necessary to determine whether the claimant's impairment in fact results in his being unable to engage in *any* substantial gainful activity. In these cases a vocational expert may be called upon to testify.

Two basic questions will be presented to you at this hearing. The first question pertains to the kind of work, if any, the claimant is equipped to do in light of his prior work activity and residual functional capacities considering his age, education, training and experience. Your testimony will be predicated on varying assumptions, posed by the hearing examiner, with respect to the claimant's residual functional capacity. You will not be expected to testify as to whether or not the claimant is under a disability since the hearing examiner has the responsibility for deciding this ultimate legal issue. You should not express any opinion regarding the claimant's impairments and their effect on his functional capacity, since these are medical matters.

The second question is whether such work exists in the "national economy," i.e., whether it exists in significant numbers either in the region where the claimant lives or in several other regions of the country. You should be prepared to testify from personal knowledge gained from such sources as local USES offices and vocational surveys of businesses and industries, whether such surveys were made by you or by other vocational experts.

You will be requested to furnish the rationale for your opinions. In this regard, you should be prepared to support your views with occupational resource material, including published studies containing occupational information helpful in determining the extent to which vocational skills can be transferred from one type of work to others. In forming your judgment as to whether or not the claimant was able to transfer his vocational skills to any other types of work, please consider only work which the claimant could have performed after a normal period of training usually given to new employees rather than after extended vocational rehabilitation.

Questions may also be asked of you by the claimant or his representative.

THE LEGAL AID SOCIETY

PARK PLACE OFFICE
ELEVEN PARK PLACE
NEW YORK, N. Y. 10007

(212) 227-2755

MORTON B. DICKER
Attorney-in-Charge

ORISON S. MARDEN
Chairman of the Board

SHELDON OLLENSIS
President

EDWARD Q. CARR, JR.
Attorney-in-Chief

LEON B. POLSKY
Attorney-in-Charge
Civil Division

183

IN REPLY REFER TO OUR NUMBER

October 15, 1973

RECEIVED

Robert W. Leiner, Administrative Law Judge
Social Security Administration
Bureau of Hearings and Appeals
175 Remsen Street
Brooklyn, New York

Re: Felix Rojas-Gonzalez
SS # 582-26-9405

Dear Judge Leiner:

Enclosed herewith please find the material received today by this office from Dr. M. Springer, who is currently treating the above-named claimant. I hope that this satisfactorily answers any questions concerning the extent of the claimant's current disability.

At the hearing on this case held before you on September 24, 1973, I requested to be allowed to submit a memorandum brief to you after all the evidence was in. I intend to mail the brief to your office by this Friday, October 19. Thank you very much for your cooperation and patience in this matter.

Very truly yours,

Eric A. Rundbaken

Eric A. Rundbaken

EAR:kbc

Enclosure

Exhibit 25 (2 pp)

The purpose of the Society is to render legal aid in the City of New York to persons who are without adequate means to employ other counsel.—By-laws of The Legal Aid Society.

07141924 Y2 25376 6/9/71 582 26 9405 184

Felix Rojas 52 5611 Kings Highway, Brooklyn, N.Y.

Standard Wiping Material 645 Dean Street, Brooklyn, N.Y.

Commerical Union Insurance Co. 127 John Street, NYC

1. Patient stated that he fell from the 2nd to the 1st floor on to a bailing machine, taken to the Brooklyn Hospital, Brooklyn, New York for eighteen days where he was treated by Dr. Freider who referred him to Dr. Roger for further treatment.

2. x

3. x Brooklyn Hospital, 18 days.

4. described above. x

5. Post fracture synorome on multiple fractures of the cervical vertebra of the neck marked by restriction of the neck, decreased resistance power in the posterior-anterior positions, marked tenderness upon percussion over the fracture site, improperly performed toe-heel tests, defect on flexion and rotation of the trunk at the 3/4 mark. Patient had a right herniorrhaphy at the Unity Hospital, Brooklyn in May 1972, There is no evidence of hernia at this date.

6. Symptomatic therapy, observation and sedation until all records are secured.

7. 7/23/73 ?

8 x no x yes ?

9. x yes

10. Request authorization for further therapy as outlined above on line 8.

10 (a) ANY TUESDAY MORNING

BEST TYPED COPY OF FOLLOWING PAGE FOR LEGIBILITY

BEST COPY AVAILABLE

STATE OF NEW YORK

WORKMEN'S COMPENSATION BOARD

ATTENDING PHYSICIAN'S 185
48-HOUR REPORT

PLEASE PRINT OR TYPE — ZIP CODE IN ALL ADDRESSES — CLAIMANT'S SS# MUST BE ENTERED BELOW

WCB CASE NO. (If Known)	CARRIER CASE NO. (If Known)	DATE OF INJURY AND TIME	ADDRESS WHERE INJURY OCCURRED (City, Town or Village)	SOCIAL SECURITY NUMBER
0714 0034	XB 25376	6/9/71	[redacted]	582 26 9455

INJURED PERSON	NAME [redacted]	AGE 52	6611 Kings Highway, Brooklyn, N. Y.
EMPLOYER	Standard Wiping Material		645 Dean Street, Brooklyn, New York
INSURANCE CARRIER	Commercial Union Insurance Co.		127 John Street, NYC

HISTORY

1. State how injury occurred and give a description of the injury or illness. If claim is for occupational disease, include occupational history and date of onset of related symptoms. Patient states that he fell from the 2nd to the 1st floor on to a baling machine, [illegible] taken to the Brooklyn Hospital, Brooklyn, New York for eighteen days where he was treated by Dr. Freidus who referred him to Dr. Kogen for further treatment.

2. Is there a history of previous injury or illness? ☐ YES ☐ NO | If "Yes," for how long? | Were X-Rays taken? ☐ YES ☐ NO

3. Was patient hospitalized? ☐ YES ☐ NO | If "Yes," state name and address of hospital: Brooklyn Hospital, 18 days.

4. Was patient previously under the care of another physician for this injury? December Floyd. ☐ YES ☐ NO | If "Yes," enter his name and address, and reason for transfer under "Remarks" (Item 10).

OBJECTIVE

5. Describe objective findings and diagnostic test results (fractures, dislocations, lacerations, contusions, etc.) Fracture of the cervical vertebra of the neck [illegible] tenderness on percussion over the fracture site, limitation and rotation of the trunk at the [illegible] Xrays [illegible] Xrays is [illegible] records are secured.

TREATMENT

6. Date of your first treatment: 7/23/73 | If treatment is continuing, estimate its duration: ?

7. If treatment is not continuing, is patient under your care? ☐ YES ☐ NO | If "Yes," state date of last treatment:

DISABILITY

8. Have the injury or illness caused restriction, total or partial loss of function of a part or member, or permanent facial disfigurement? ☐ YES ☐ NO

9. Is patient working? ☐ YES ☐ NO | Is patient disabled? ☐ YES ☐ NO | If "Yes," estimate duration of disability: ?

CAUSAL RELATION

10. In your opinion, was the occurrence described above the competent producing cause of the injury and disability (if any) sustained? ☐ YES ☐ NO

REMARKS

Patient is totally disabled from [illegible] as outlined above on line 6.

7/23/73	[illegible]		ANY TUESDAY MORNING
WCB Representative	WCB Examination No. 113-4	Date of Exam. 7/7/0030	2411 Eden Blvd., Brooklyn, N. Y. 112[illegible]
			Written Signature of Attending Physician [illegible]

C-40 (11-71) ANSWER ALL QUESTIONS. AVOID USE OF INDEFINITE TERMS
See Reverse Side

PROFESSIONAL QUALIFICATIONS

186

1. Physician's Name SPRINGER (Last) Morris (First) (Middle)

2. Address 204 Linden Blvd., Brooklyn, N.Y. 11226

3. Year of Birth (B): 1909

4. Medical Education (ME): State: District of Columbia

School: George Washington University School of Medicine, Washington

Year of Degree: 1935

5. Year of License (L): 1935

American Specialty Boards (AB):

7. Medical Specialties:

8. Type of Practice (TOP): General Practitioner - Full Time

9. National Scientific Medical Societies (SS):

10. Professorial Appointments (PA): State:

School

Title & Current Status

11. Other Information (e.g., Hospital Appointments):

12. Sources of Information

American Medical Directory		
Year:	Edition:	Page:
19[illegible]	[illegible]	[illegible]4

Other Sources

Form HA-526

Exhibit 56

SOCIAL SECURITY ADMINISTRATION
BUREAU OF HEARINGS AND APPEALS

----------X

In the Matter of the Application of

FELIX ROJAS-GONZALES,
Claimant,

For Disability Benefits under the
Social Security Act, as amended.

----------X

CLAIMANT'S MEMORANDUM BRIEF

THE LEGAL AID SOCIETY
Attorneys for Claimant
Eric A. Rundbaken, of counsel
11 Park Place
New York, New York 10007
(212) BA 7-2755

RECEIVED
OCT 23 [illegible]
[illegible]
[illegible]
Hempstead, New York 11201

Exhibit 27 (1044)

STATEMENT OF FACTS

Claimant, a 52 year old Puerto Rican laborer, who is not fluent in English, was injured in a fall on his last job. He is applying for benefits under the Social Security Act, as amended.

A hearing was held before Robert W. Leiner, Administrative Law Judge, on September 24, 1973. Present and testifying at the hearing were the claimant and Mr. Benjamin H. Lipton, a "vocational expert". Claimant's attorney and a Spanish interpreter were also present.

Medical evidence was received which indicated the medically determinable injuries and limitations of claimant. Claimant testified further as to his pain and what movements he is capable of performing. Hypothetical questions were presented by the Administrative Law Judge to the"vocational expert" to determine his opinion of claimant's ability to find substantial gainful employment, based on a set of aasumptions concerning the degree of claimant's disability.

POINT I - THE EVIDENCE ESTABLISHES THAT CLAIMANT IS SUFFERING FROM A DISABILITY WHICH PREVENTS HIM FROM ENGAGING IN SUBSTANTIAL GAINFUL EMPLOYMENT.

Claimant suffered a severe physical injury to his back while on his last job, in 1971. He was hospitalized for a period of time, and is still under the care of a physician. The medical evidence, submitted in the form of reports to the Administrative Law Judge, clearly delineates the injury as a compression fracture of the back, with rotary wedging, scoliosis with angulation, and spasms. This condition has lasted for over two years, and was verified by a consulting physician at the request of the Social Security Administration.

In addition to the quantifiable and uncontradicted medical evidence, claimant testified at the hearing that he is is almost continual pain and is unable to maintain a constant position comfortably or to move about to any great degree without suffering. He stated that he is unable to climb more than five steps without having to stop and cannot walk more than a few blocks without stopping. His degree of discomfort at the hearing was such that the Administrative Law Judge noted for the record that at least once each hour claimant evidenced a desire to stand, and in fact did change position during the hearing.

The amount of pain which a person suffers is of course a subjective consideration. It is especially hard to

determine when the underlying injury is to the back and spine. However, the reality of pain as a vital factor in disability determinations is recognized in the Social Security Act and the cases interpreting it. 42 U.S.C. §§ 416(i), 423(g); Whaley v. Gardner, 374 F.2d 9 (8 Cir. 1966); Page v. Celebrezze, 311 F.2d 757 (5 Cir. 1963); Mark v. Celebrezze, 348 F.2d 289 (9 Cir. 1967); See also, cases annotated in 23 A.L.R.3d 1034; 20 C.F.R. 1501(i).

No evidence contradictory to claimant's was submitted at the hearing on the subject of the amount of pain he actually suffers or might be suffering. Other medical evidence, which limited itself to the perameters of possible movement by the claimant, did not rule out the possibility of pain caused by those movements he still can make. There was no reason presented at the hearing to reject his testimony.

Taken as a whole, therefore, the medical evidence before the hearing clearly showed that claimant is disabled. In a frank reply to the Administrative Law Judge's questioning, the "vocational expert" admitted that were claimant's testimony accepted, he would be totally disabled and unemployable. There being no reason to reject Mr. Rojas-Gonzales' terstimony, a finding that he is disabled must be made.

POINT II - THERE WAS NO SUBSTANTIAL EVIDENCE PRESENTED AT THE HEARING TO SHOW THAT CLAIMANT COULD ENGAGE IN SUBSTANTIAL GAINFUL EMPLOYMENT.

A) Claimant's age, education and work experience establish that he is unable to engage in substantial gainful activity.

Claimant's entire working life has been limited to arduous, unskilled, physical labor. For over thirty years, he has been employed as a physical laborer. He was a tobacco farmer and a sugar cane farmer to over twelve years in Puerto Rico before he came to the United States in the early 1950's. Since his arrival here, claimant has done solely heavy industrial work, in a mattress factory, a furniture factory, and a factory where he took fifty to one hundred pound bundles out of a machine and carried them for short distances.

Mr. Rojas-Gonzales has little education and is not fluent in English. The testimony at the hearing revealed that his education was only through the second grade in Puerto Rico, and that he is illiterate.

The claimant has a significant impairment which prevents him from doing his previous type of work. Even if it were possible or acceptable to disregard claimant's testimony totally, it is undisputed that claimant is unable to perform adruous physical labor as a result of the injury to his back. The consultative examination of Dr. Nelson (Exhibit 20) alone states

that claimant in unable to do any heavy lifting, bending or stooping repetitively.

Claimant has not demonstrated any ability to do lighter work. It is total speculation to assume that claimant would be able to perform lighter work than that which he has become used to during his working life.

B) There is no employment opportunity reasonably available to claimant which he could perform.

At the hearing, Mr. Benjamin H. Lipton, a "vocational expert" testified for the Secretary in response to the hypothetical situations posed by the Administrative Law Judge. There was no indication in his testimony that any particular job existed which claimant could be expected to perform.

As previously indicated, if claimant's testimony were accepted in addition to the doctors' reports, it was conceded by Mr. Lipton that claimant would be unemployable. Claimant contends that there is no reason to reject his testimony and thus that he is unemployable.

However, assuming arguendo that claimant's testimony is partially disregarded, as a second hypothetical situation did, Mr. Lipton failed to show any job claimant could be able to perform. The Administrative Law Judge asked Mr. Lipton to assume the truth of all conditions in Dr. Nelson's report plus the following: claimant is able to sit for one-half hour,

stand for three hours, to walk four blocks, to lift thirty pounds but not repetitively, to move only 55^0 forward and 20^0 from side to side. Further, he was asked to assume that claimant is unable to bend or stoop, and evidenced a desire to stand at least once an hour.

Given all these assumptions, Mr. Lipton estimated, relying exclusively on the Dictionary of Occupational Titles, that there ware a "selected few" jobs in New York State, classified either as "sedentary" or "light" which Mr. Rojas-Gonzales could perform. He said the jobs were assembling small component parts in various industries. Given a broader range of possible movement (but still within the limitations of Exhibit 20), Mr. Lipton suggested that claimant could be an unarmed guard, or could engage in light janitorial work, including use of a vacuum cleaner, or could empty waste paper baskets. Examination of how these contentions fared under examination at the hearing is useful.

Mr. Lipton was unable to tell the hearing which jbbs involved repetitive lifting, although he said "some" didn't. He was unable to testify as to which jobs involved sitting for longer than one-half hour, although he said "some" didn't. He was unable to testify which jobs involved bending or stooping at the assembly place, although again he vaguely said "some" didn't. Most importantly, he could not name any single job which incor-

porated all of these limitations, as well as the others listed by the Administrative Law Judge in his hypothetical question.

It is clear from the total content of Mr. Lipton's testimony that he either did not understand the nature of the claimant's limitations or did not seriously consider them. His testimony was that a man who cannot bend or stoop could perform a job as a waste basket emptier, a job which certainly would require tbe worker to bend down repetitively to pick up the waste baskets. Further, his assertion that a man who cannot run, or walk over four blocks, and whose movements are sererely limited should be able to work as an unarmed guard, can only be described as ludicrous (consider this job title also for a man who does not speak English well).

The third hypothetical question was based solely on the findings of Dr. Nelson, totally rejecting claimant's testimony. While we contend that it would be improper to disregard this testimony, Mr. Lipton did not indicate that this would change the type of job available to Mr. Rojas=Bonzales, but merely that a larger number of jobs of the nature described above would become possible for him. The same considerations we hav e noted above apply to Mr. Lipton's answers to this hypothetical with the following comment : given the broader range, Mr. Lipton was still unable to point to any single job claimant could definitely perform.

It was clear that Mr. Lipton relied on the Dictionary of Occupational Titles to determine job classifications available to claimant. He was unable to provide the hearing with one job which would definitely meet all the limitations of claimant as expressed in the hypothetical questions. He did not testify to making a single local contact to verify that one job reasonably exists which would be available to Mr. Rojas-Gonzales given his physical and educational limitations.

This reliance on the D.O.T. cannot be substantial evidence of substantial available employment. In the case of Pendergraph v. Celebrezze, 255 F.Supp. 313 (D.C.N.C. 1966), the Court stated

> Excessive reliance on the Dictionary of Occupational Titles and Estimates of Worker Trait Requirements, and the capsule descriptions of jobs contained therein, has been repeatedly condemned...(citations)...and if nothing more appeared there would clearly be a lack of substantial evidence to support the findings of the Hearing Examiner. 255 F.Supp at 323.

On the record of this hearing, no substantial evidence exists for the propostion that there are any alternative jobs that the claimant, Mr. Rojas-Gonzales, could be expected to be able to perform.

CONCLUSION

For the reasons stated above, it is respoctfully contended that claimant is disabled under the Social Security Act, as amended, and is entitled to benefits.

DATED: October 1973

Respectfully submitted,

THE LEGAL AID SOCIETY
Attorneys for Claimant
Eric A. Rundbaken, of counsel
11 Park Place
New York, New York 10007
(212) BA 7-2755

Exhibit 27

November 20, 1973

197

Employers Commercial Union Ins. Co.
127 John Street
New York, N.Y.

Re: Felix Rojas (Gonzalez)
Vs: Standard Wiping Materials
Inj: 6-9-71
Case #Y2 5378
WCB. #0714 1924

Gentlemen:

I re-examined this patient on 11/7/73 at the request of Dr. Springer.

The man is not working, because he says that he still has pain in his neck, head and back. He says that he can't work.

Examination: NECK: Flexion reached to 150° and the chin came to 2 1/2 finger breadths from the sternum. Extension was 40° and painful Bending each way was 30°. The turn of the neck each way was 35°.

BACK: Flexion of the spine was allowed to 120°. Extension was rigid and 20°. Right and left bending each was 45°. Tenderness was present along the length of the lumbar spine.

The gag reflex is absent

Note prominence of the right hip

Response to the wheel is the same

Opinion: The man is still unable to work The disability which he has is causally related to the accident

I would advise neuropsychiatric consultation as noted before

He should continue to see Dr. Springer. He bears further observation and care. I should like to see him again in about 2 months. Authorization is requested for such observation and care.

BEST TYPED COPY OF FOLLOWING PAGE FOR LEGIBILITY

BEST COPY AVAILABLE

MICHAEL BURMAN, M. D.
14 EAST 75TH STREET
NEW YORK, N. Y. 10021
RHINELANDER 4-1455

November 20, 1973

Employers Commercial Union Ins. Co.
117 John Street
New York, N. Y.

Re: Felix Rojas (Gonzalez)
Vs: Standard Wiping Materials
Inj: 6/9/71
Case #2 5078
WCB. #0714 1924

Gentlemen:

I re-examined this patient on 11/7/73 at the request of Dr. Springer.

The man is not working, because he says that he still has pain in his neck, head and back. He says that he can't work.

Examination: NECK: Flexion reached to 30° and the chin rested on 2 1/2 fingers breadth from the sternum. Extension was 40° and painful. Bending each way was 30°. The turn of the neck each way was 35°.

BACK: Flexion of the spine was allowed to 80°. Extension was rigid and 20°. Right and left bending each was 25°. Tenderness was present along the length of the lumbar spine.

The sag reflex is absent.

Bony prominence of the right hip.

Response to the Wasserman is the same.

Opinion: The man is still unable to work. The condition which he has is causally related to the accident.

Exhibit AC-1 (HP)

[illegible] would advise neurosurgical consultation and blood tests.

We should continue to see Dr. Springer. He knows [illegible] and case. I should like to see this again in [illegible] Authorization is requested for such consultation and tests.

EXHIBIT AC-1

Very truly yours,

[illegible] NYC 10014 [illegible]

October 4, 1973

199

Employers Commercial Union Ins. Co.
127 John Street
New York, N.Y.

Re: Felix Rojas (Gonzalez)

X-Ray Report:

A new lateral roentgenogram was taken on 9/26/73 in order to clarify the status of the dorsal vertebrae and with particular reference to the existence of a healed fracture or present fracture.

The dorsal spine was visualized from D3 through D12. There is some compression of D8. The bodies show some evidence of osteoporosis.

I have referred this man back to Dr. Springer for further treatment. Please refer to my previous letter report dated 9/24/73.

Authorization is requested for the observation and care of this patient.

BEST TYPED COPY OF FOLLOWING PAGE FOR LEGIBILITY

MICHAEL BURMAN, M. D
14 EAST 75TH STREET
NEW YORK, N. Y. 10021
RHINELANDER 4-[illegible]

200

October 4, 1973

Employers Commercial Union Ins. Co.
127 John Street
New York, N. Y.

Re: Felix Rojas (Gonzalez)
Vs: Standard Wiping Materials
Inj: 5/9/71
Case #X2 5378
WCB. #0714 1924

X-Ray Report:

A new lateral roentgenogram was taken on 9/26/73 in order to clarify the status of the dorsal vertebrae and with particular reference to the existence of a healed fracture or present fracture.

The dorsal spine was visualized from D3 through D12. There is small compression of D8. The bodies show bone evidence of osteoporosis.

I have referred this man back to Dr. Spielgel for further treatment. Please refer to my previous letter report dated 9/28/73.

Authorization is requested for the observation and care of this patient.

Very truly yours,

Michael Burman, M. D.
MB:ss

September 24, 1973 201

Employers Commercial Union Ins. Co.

Re; Felix Rojas (Gonzalez)

Gentlemen:

I examined this patient on 9/12/73 at the request of Dr. M. Springer.

History: He fell down a hole which is 10 feet wide, a hole used for the dumping of material. He fell from the 2nd floor of the building to the 1st floor. He said that he fell on his back and that he also struck the left temple area.

He was taken by ambulance to the Brooklyn Hospital emergency room and he was admitted as an In-patient for 18 days. A diagnosis of a fracture of the 2nd, 4th and 8th dorsal vertebrae was made. He was kept in bed without traction. He said that he was given some kind of support for his back.

After he left the hospital he consulted some doctors. He is quite vague about this and seems to have no recollection of the medical care between the time he left the hospital and the time that he saw Dr. Springer in August of 1973.

The man is not working. He said that he can't work because of pain in the dorsal spine.

He denied previous similar disability.

Complaints: He points to the region of D3 and D4 as the site of pain.

Examination: NECK: There is some increase in the rounding of the dorsal spine. He also has some pain in the pratuber and belly. The lumbar spine is flattened and tight. Flexion of the spine was slowly done to 120°. There are small ____ defects over each _____-_____joints and with dimlping. Extension was rigid and 15°. Right bending was 35° and left bending was rigid and 35°.

BEST TYPED COPY OF FOLLOWING PAGE FOR LEGIBILITY

MICHAEL BURMAN, M. D.
14 EAST 75th STREET
NEW YORK, N. Y. 10021
RHINELANDER 4-1485

202

September 24, 1973

Employers Commercial Union Ins. Co.
127 John Street
New York, N. Y.

Re: Felix Rojas (Gonzales)
Vs: Standard Wiping Materials
Inj: 6/9/71
Case #X2 5378
WCB. #0714 1924

Gentlemen:

I examined this patient on 9/12/73 at the request of Dr. M. Springer.

History: He fell down a hole which is 10 feet wide, a hole used for the dumping of material. He fell from the 2nd floor of the building to the 1st floor. He said that he fell on his back and that he also struck the left temple area.

He was taken by ambulance to the Brooklyn Hospital emergency room and he was admitted as an In-patient for 15 days. A diagnosis of a fracture of the 2nd,4th and 8th dorsal vertebrae was made. He was kept in bed without traction. He said that he was given some kind of support for his back.

After he left the hospital he consulted some doctors. He is quite vague about this and seems to have no recollection of the medical care between the time he left the hospital and the time that he saw Dr. Springer in August of 1973.

The man is not working. He said that he can't work because of pain in the dorsal spine.

He denied previous similar disability.

Complaints: He points to the region of D2 and D4 to the site of pain.

Examination: [illegible] in the region of the [illegible] spine, [illegible] pain on [illegible] body. The lumbar spine is [illegible] of the spine was slowly done to 120°. There are small lateral [illegible] of both extremities [illegible]. Reflexes [illegible] and 1+. Right bending was 25° and left bending was [illegible].

Tenderness was present over the lumbo-sacral joint area. The AJ's were equal and moderately active. The prone knee flexion test on each side was slightly restricted and painful. Straight leg raising on the right side was stopped at 140° and on the left side at 140°.

He has an umbilical hernia and a mid line roctus defect giving a ventral hernia on sitting up.

The KJ's were hyperactive. The gag reflex was present.

He also has a well healed right inguinal hernia.

Antero-posterior and lateral roentgenograms of the dorso-lumbar spine were taken on 9/12/73.

X-Ray Report: These indicate a considerable right dorsal scoliosis with apex D6 and D7. I see no evidence of gross fracture of D4 or D8 in the antero-posterior view. Neither do I see evidence of fracture in the lateral view.

The dorsal spine shows increased rounding.

Diagnosis: (1) Healed fractures of D2, D4 and D8 with painful dorsum rotundum.
(2) Continuing low back derangement.

Opinion: I would give this man a Taylor brace with shoulder straps. I would also advise observation. He should see Dr. Springer for physical therapy to the back once a week or once every 10 days.

Neurologic examination is also advised with a spanish speaking neuropsychiatrist.

It would be useful to see the earlier roentgenograms and to have more detail on the interval between 1971 and 1973.

The disability which he has causally related to the accident. Authorization is requested for the observation of this patient.

BEST TYPED COPY OF FOLLOWING FOR LEGIBILITY

MICHAEL BURMAN, M. D.
14 EAST 75TH STREET
NEW YORK, N. Y. 10021
PHINELANDER 4-1455

Re: Felix Rojas (Gonzalez) - continued

Tenderness was present over the lumbo-sacral joint area. The AJ's were equal and moderately active. The prone knee flexion test on each side was slightly restricted and painful. Straight leg raising on the right side was stopped at 140° and on the left side at 140°.

He has an umbilical hernia and a mid line rectus defect giving a ventral hernia on sitting up.

The KJ's were hyperactive. The gag reflex was present.

He also has a well healed right inguinal hernia.

Antero-posterior and lateral roentgenograms of the dorso-lumbar spine were taken on 9/12/73.

X-Ray Report: These indicate a considerable right dorsal scoliosis with apex D6 and D7. I see no evidence of gross fracture of D4 or D3 in the antero-posterior view. Neither do I see evidence of fracture in the lateral view.

The dorsal spine shows increased rounding.

Diagnoses: (1) Healed fractures of D2, D4 and D8 with paralytic dorsum rotundum.
(2) Continuing low back derangement.

Opinion: I would give this man a Taylor brace with shoulder straps. I would also advise observation. He should see Dr. Hardaway for physical therapy to the back once a week or once every 2 weeks.

Neurologic examination is also marked with a [illegible] neuropsychiatrist.

It would be useful to see his earlier roentgenograms and to have more detail on the lateral [illegible] 1973.

Exhibit AC-1

The disability which he has is mutually related to the accident. Re-examination is requested for the [illegible]

Very truly yours,

Michael Burman, M. D.

MB:ma

THOMAS C. GUTHRIE, M. D.
130 EAST 65TH STREET
NEW YORK, N. Y. 10021

YUKON 8-2700

205

June 12, 1974

Philip Mac I. Bourland, M.D.
Bureau of Disability Determinations
Two World Trade Center
New York, N.Y. 10047

Re: Felix Rojas-Gonzalez

Dear Dr. Bourland:

This is the report of a neurological evaluation performed on Mr. Rojas-Gonzalez on 5-22-74. This patient is a fifty-six year old Puerto Rican male who used to work as a presser. Apparently beginning in June of 1971 the patient fell two stories when at work. He was briefly unconscious. Apparently he fractured two thoracic vertebrae and was taken to the Cumberland Hospital and then spent 18 days in the Brooklyn Hospital. Since that time the patient has had posterior headache and posterior cervical pain. He has no root pain radiating into the upper extremities. He has diffuse pains up and down his spine. He has pains in the lower abdomen.

He had no complaints referable to his gait. He has severe lightheadedness He denied visual loss, double vision, numbness, weakness, paresthesia or episodes of loss of consciousness.

A complete neurological examination was within normal limits. There were no disorders of pupils, external occular movements, optic fundi, jaw, face, tongue, and there were no motor or sensory defects in the upper or lower extremities.

I see no evidence of any neurological disease in this patient. He has subjective complaints of headache and lightheadedness which could be put together as a post concussion syndrome but there is absolutely no finding on neurological examination to substantiate this. I think the patient's major problem is a chronic anxiety reaction. I thought there was normal range of active and passive motion and I found no atrophy or paralysis, tremors, weakness, deformity or pathological reflexes.

Thank you for this interesting referral.

Very truly yours,

TCG:mp

Thomas C. Guthrie, M.D.

EXHIBIT AC-2

Exhibit AC-2
(3pp)

Nervous System
(8/73) CE-392

206

To: Thomas C. Guthrie, M.D. Claimant Felix Rogas-Gonzalez

A/N 582-26-0405

PLEASE ANSWER ALL RED CIRCLED ITEMS

1. Date(s) of your examination 5/22/74

2. What is the degree of residual motor weakness in the affected extremities on the basis of one to four plus with four plus representing total paralysis?

   a. Lower extremity: Left 0 Right 0

   b. Upper extremity: Left 0 Right 0

3. What is the degree of aphasia present on the basis of one to four plus with four plus representing total aphasia? 0

4. a. Is there any speech disturbance? No b. Severity _____

5. a. Are there any personality changes? (i.e., headache, irritability, loss of ability to concentrate, insomnia, memory defects, etc.) Headache + light headedness

   b. Specify disorder and give severity Post Concussion Syndrome

6. List residual sensory changes and give severity None

7. List residual motor changes and give severity None

8. a. Is there any visual disturbance No

   b. State type and severity _____

9. Give frequency of diurnal grand mal attacks: None

   Daily _____; Weekly _____; Monthly _____; Other _____

10. Give frequency of petit mal attacks: None

    Daily _____; Weekly _____; Monthly _____; Other _____

State of New York - Department of Social Services
Bureau of Disability Determinations
Two World Trade Center, New York, N.Y. 10047

(over please)

(Reverse) (11/65) CE-392

11. Give therapy used in treatment, if known:

Therapy	Response
None	

12. If contractures present, give joints involved: None

Joint	Severity (Degree of Contracture)

13. Check members affected by tremor and give severity on basis of one to four plus: None

Extremity	Severity
a. Left upper	
b. Right upper	
c. Left lower	
d. Right lower	

14. State degree of rigidity on basis of one to four plus No

15. a. Is festination present? No b. Severity

16. a. Is gait affected? No b. Type and Severity

17. Loss of weight? No Amount? Present weight Height

18. Give any other serious condition significant to recovery
Severe chronic anxiety state

19. Give your opinion whether this claimant is capable of managing benefit payments in his own interest. Yes

Exhibit AC-2

Signed H W Gilchrist M.D. Date

For Bureau Use: Review Physician M.D. Date

PROFESSIONAL QUALIFICATIONS

208

1. Physician's Name GUTHRIE III (Last) THOMAS (First) C. (Middle)

2. Address 130 East 65th Street

New York, New York 10021

3. Year of Birth (B): 1924

4. Medical Education (ME): State: New York

School: Columbia University of Physicians and Surgeons, New York

Year of Degree: 1947

5. Year of License (L): 1951

6. American Specialty Boards (AB): DIPLOMATE-American Board of Psychiatry & Neurology

7. Medical Specialties: Neurology

8. Type of Practice (TOP): Direct patient care

9. National Scientific Medical Societies (SS):

10. Professorial Appointments (PA): State:

School:

Title & Current Status:

11. Other Information (e.g., Hospital Appointments):

12. Sources of Information: American Medical Directory
Year: 1973 Edition: 26th Page: 2933

Exhibit AC-3

Other Sources: Dir. of Med. Spec. Edition 16, 1974-75, page 1991

EXHIBIT AC 3

3

Form HA-526

LEON RUDORFER, M.D., F.A.P.A.
2428 OCEAN AVENUE
BROOKLYN, NEW YORK 11229

1974 DEC 16 [illegible]

209

November 25, 1974

Joseph J. Oliva, M.D.
Chief Medical Consultant
Bureau of Disability Determinations
Two World Trade Center
New York, N.Y. 10047

Re: Felix Gonzalez-Rojas
57 4th Ave.
Brooklyn, NY

S.S. #582-26-9405

Dear Dr. Oliva:

This 57-year-old Puerto Rican, single male was seen in psychiatric consultation on 11/25/74. He came alone via two buses. He walked in limping, with a cane in his right hand. He was well groomed and casually but neatly dressed. Throughout this interview, which was conducted in Spanish and English, there was no evidence of tics or mannerisms. Case history and records were reviewed.

Patient said, "I have a lot of trouble. Last year was bad. This year I'm more sick." He said that he has a lot of pain in his back, right arm and chest, and all along the spine. He cannot make a fist with his right hand. Patient showed the undersigned an abdominal brace, which he was wearing for low-back support. He said that he cannot walk more than five blocks and cannot sit for more than two or three hours at a time. He said, "All the time I'm taking pills for pain." Then he said, "I feel very bad. I have fractures of vertebrae and ribs on the left side. The pain gives me dizziness and therefore I have to use a cane to walk." He further stated that sometimes he has trouble sleeping and that his appetite varies.

Patient said that he has been sick for 3½ years. "Last year I felt a little better." In fact, he tried to work at Land Used Refrigerators, 931 Utica Avenue, Brooklyn. Patient presented a note from his employer stating "Felix Rojas tried to work for me cleaning refrigerator and stove. He worked only 2 hours. Then he couldn't work any more--his back gave out. (Signed) Mr. Land."

Mr. Rojas was born in Puerto Rico on 6/14/17, the youngest of ten siblings, and came to the United States about 20 years ago. At present he has only three married sisters and one married brother living. He has only two years of schooling and he knows how to read and write Spanish "just a little bit." Patient said that he used to date but was never married. In Puerto Rico he worked on sugar cane; in the United States, he worked on a press machine.

Exhibit AC-4 (4pp)

He felt well until 6/9/71, when he was in an accident. He said that at the time he worked for three years at Standard Piping Materials, 545 Dean Street, Brooklyn. He claims that he lost consciousness for about 1½ days. He was taken by ambulance to Cumberland Hospital and then transferred to Brooklyn Hospital.

EXHIBIT AC-4

Re: Felix Gonzalez-Rojas

Patient denies ever being treated for a nervous condition. He said, "I don't have nervousness. It's the pain that bothers me and gives me dizziness."

Patient lives alone in a 2-room apartment. He said that he spends his time lying down, watching t.v., listening to the radio; sometimes he goes for a short walk. When he feels better, he goes shopping, does his own laundry. "At times I cook; at times I eat in a restaurant." He said that whenever he can, he cleans his apartment.

Once a month, patient sees a Dr. Springer (Compensation Doctor) who prescribes Darvon Compound-65 for pain. He also attends the Chest Clinic at Fort Green Health Center once every two weeks. He said the Doctor there told him that he has t.b. and gives him medication for it. Patient did not have the pills with him and did not know what they were either.

Throughout this interview Mr. Rojas related in a friendly manner. He was relevant and coherent and there was no evidence of evasiveness, blocking or speech anomalies. He appeared fairly well relaxed, and his affect was appropriate. No psychotic material was elicited, including suicidal thoughts. He was well oriented to time, place and person. His memory remains grossly intact. Insight: superficial; judgment: fair.

Diagnostic Impression: No evidence of psychiatric disorder at this time

Claimant is able to manage his own cash benefits.

Sincerely yours,

Leon Rudorfer, M.D.

LR:BH

Form Approved.
Budget Bureau No. 72-R0872

SUPPLEMENTAL QUESTIONNAIRE

NAME OF CLAIMANT

211

Felix Gonzalez Rojas

SOCIAL SECURITY NO.

582-26-9405

Dear Doctor:

In addition to the information provided in your narrative report, please complete each of the following items by circling the appropriate word. It is essential that your answers be based on your estimate of the claimant's psychiatric impairment and not on nonmedical factors such as availability of job openings, hiring practices of employers, etc.

1. Estimated degree of impairment of the claimant's ability to relate to other people:

(None) Mild Moderate Moderately Severe Severe

2. Estimated degree of restriction of daily activities, e.g.: ability to attend meetings (*church, lodge, etc.*), work around the house, socialize with friends and neighbors, etc.:

(None) Mild Moderate Moderately Severe Severe

3. Estimated degree of deterioration in personal habits of claimant:

(None) Mild Moderate Moderately Severe Severe

4. Estimated degree of constriction of interests of claimant:

None Mild Moderate (Moderately Severe) Severe

5. Based on your evaluation of the claimant's psychiatric status, please give your opinion as to the claimant's residual ability to do the following on a sustained basis:

(a) Comprehend and follow instructions

Poor Fair Good (Excellent)

(b) Perform work requiring frequent contact with others:

Poor Fair (Good) Excellent

(c) Perform work where contact with others will be minimal:

Poor Fair (Good) Excellent

(d) Perform simple tasks:

Poor Fair (Good) Excellent

(e) Perform complex tasks:

Poor (Fair) Good Excellent

(f) Perform repetitive tasks:

Poor Fair (Good) Excellent

(Over)

HA-520

(g) Perform varied tasks:

Poor (Fair) Good Excellent

6. In order to improve the claimant's condition by practicable available measures, which of the following would you recommend?

a. [X] No specific treatment

b. [ ] Psychotherapy *(supportive interviews)* and/or medication *(tranquilizing or anti-depressant)* provided by:

[ ] Office visits to a general physician *(not necessarily a psychiatrist)*

[ ] An outpatient clinic of a general hospital

[ ] Outpatient treatment at a mental hygiene clinic

c. [ ] Hospitalization

d. [ ] Other treatment not stated above – Please outline your general recommendations.

7. Based on your recommended treatment, what degree of improvement can reasonably be anticipated in the claimant's condition, and approximately how long would be required to achieve this improvement?

Exhibit AC-4

DATE 11/25/74 SIGNED Leon Reader for M.D.

PROFESSIONAL QUALIFICATIONS

213

1. Physician's Name RUDORFER (Last) LEON (First) (Middle)

2. Address 2428 Ocean Avenue
Brooklyn, New York 11229

3. Year of Birth (B): 1911

4. Medical Education (ME): State: Italy
School: Bologna
Year of Degree: 1938

5. Year of License (L): 1950

American Specialty Boards (AB): DIPLOMATE-American Board of Psychiatry & Neurology

7. Medical Specialties: Psychiatry, Other Specialty

8. Type of Practice (TOP): Direct patient care

9. National Scientific Medical Societies (SS):

10. Professorial Appointments (PA): State:
School:
Title & Current Status:

11. Other Information (e.g., Hospital Appointments):

12. Sources of Information: American Medical Directory
Year: 1973 Edition: 26th Page: 2815

Exhibit 4-5

Other Sources: Dir. of Med. Spec. Edition 16, 1974-75, page 1973

EXHIBIT AC 5

VA 526

NORMAN KOROBOW, PH.D.

HUMAN FACTORS 1655 FLATBUSH AVENUE BROOKLYN, N Y. 11210 AREA 212 377-5990

Claimant:Felix Gonzalez Rojas
582-26-9405
Age:56yrs. Tested:Dec.4,74.

Tests:Bender-Gestalt, Hutt Adaptation of The Bender-Gestalt (HABGT) Grune & Stratton NY,Publishers.

Rorschach

EIWA Escala de Inteligencia Wechsler para Adultos.

Mr.Rojas came to be tested at three seperate instances. The first time he did not have his glasses with him and said he couldn't see the B-G figures. The second time he declared that he didn't speak english. The third time he took the tests with the aid of an interpreter. Although he appeared to be quite dependent on his cane as he entered the office,he was observed to carry it over his arm as he walked down the street away from the office. At the third visit he did not have the walking stick. He was slow and deliberate and answered no question impulsively. On coming to the office he showed me documents and pills to attest to his illness. When first presented with the Bender figures(without his glasses) he held the cards close to his face. Since he is far-sighted one would have expected him to hold the cards at arms length when he wasn't wearing his glasses! At one time during the test he stood up and declared that he couldn't continue because his back was hurting. When it was suggested that he come back the next day to complete the test he sat down and became more compliant. The claimant travels by himself and is quite self sufficient.

Bender-Gestalt (HABGT) is essentially an instrument to assess perceptual-motor coordination. Distortions of the reproduced figure cards are used to evaluate:organicity, retardation,level of development,and behavior pathology. The test can be utilized as a projective technique;however this use is not fully validated and is used to augment more fully validated proceedures.

The record does not indicate the presence of intracranial damage, a schizophrenia or one of the psychoneuroses. The Pathology Score of 36 is close to normal limits and indicates some difficulty in adjustment with a tendency towards a psychoneurotic mode of adjustment. As a projective test it points to problems in inter-personal relations. The claimant feels alone and isolated. he shows a passive-aggressive behavior coupled with an infantile anger. The record

Exhibit AC-6
(5pp)

is guarded and shows a tendency to withdraw under stress. While there is no distinct pattern shown there is a tendency towards hysterical symptomatology.

Rorschach The protocol is that of a guarded set of responses. The record is constricted both in the range of interests shown and in the affective tone. Both internal motivations and responsiveness to social stimuli are marginal. He shows a tendency to isolate himself and withdraw into himself, where there is little fantasy and a minimum of drive. Creativity is quite low for one of average intelligence and it appears that he takes the road of least effort. There is a feeling of vulnerability and he is easily threatened. Although the record is depressive it also reflects a moderate anxiety level. The protocol presents no organic features.

The claimant's organization is good and he conforms to social norms within his limited span of interests. Although he avoids people he is able to deal with them with some tactfulness. He is capable of dealing with practical problems but at times he proceeds when his goals are not distinct. Concept formation is good and he aspires to more than he is capable of achieving but what he does attempt is tempered by reality.

He strikes a balance between responsiveness to external stimuli and inner promptings. His inner resources are meager with little affect and he is at times oppositional and negativistic. He becomes upset by social situations and shows a loss of effectiveness.

He employs intellectualization and withdrawal as defenses against anxiety. He represses his anger and this is probably responsible for his depressive tendency. In spite of the paucity of ideas, a poor inner life, lack of personal effort, over-ambition, and childish unacculturated drives the record is essentially normal. The record does not reflect organic damage, and there are no psychotic disturbances manifested. The blandness of the record and the repressive tendency in interpersonal relations are frequently shown in conversions, depressions, isolates, and those who are preoccupied with their problems.

The Rorschach is a projective technique in which the testee attributes to ambiguous ink-blots that activity, thought, interest, motivation and behavioral tendency which are most characteristic of his personality, covert and overt behavior.

EIWA This is a spanish language adaptation of the well standardized WAIS.

(See attached sheet for sub-test scores)

Felix Gonzalez Rojas

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The Intelligence test is a valid indicater of the claimant's intellectual effectiveness. It is a sampling of behavior in ten areas of intellectual skill. The results are consistently in the range of normal intelligence with the exception of Information and Picture Completion which are depressed scores. These deviations from the norm for this person are consistent with the adjustive mode used by the testee. Those persons who are not concerned with impersonal details do poorly in the Picture Completion. If it does not have personal relevance it is not attended too. The low Information score reflects the lack of interest in the world about him and is is cross-validated by the constricted protocol of the Rorschach. Further validation of the test as a whole is apparent in the Vocabulary score. This item is the single best index of intelligence. In this record it indicates that the intelligence of the testee is near 100 IQ. The reliability,which is temporal consistency, is best determined by test-retest proceedures over a period of time. The test itself has a reliability coefficient of .98 for this form. Utilizing the Deterioration Quotient adapted from the WAIS,on the EIWA there is no evidence of regression from a previously higher level. There was no evidence that the tests were influenced by deficiencies in the sense modalities or by medication. Vision with glasses appeared to be adequate. All questions were asked in his native tongue. At no time did he indicate that he was not able to hear or see during the examination proper. If drug ingestion was an influence on his score ,it would tend to depress the IQ in which case he would have tested at an above average level without the drugs. This examiner does not feel that medication influenced any of test results.

The test (EIWA) indicates a verbal IQ=99, a performance IQ=92 and a total IQ=96. These results place the claimant within the range of average intelligence.

Verbal comprehension with the exception of information is good.This group includes knowledge of words, social awareness and the use of common sense in the handling of everyday problems. He shows a capacity for verbal abstraction and concept formation at a slightly superior level. Number skills and speed of thinking are also at a slightly superior level. Short term memory and ability to concentrate are good. The scatter on the verbal phase of the test tends to indicate that there is a probability of a behavior disturbance of a mild nature. This tendency was noted on the projective tests also. Scatter in itself is not conclusive as a diagnostic tool.

The marked low score on the performance phase of the test was Picture Completion. Here the testee appeared to seek meaning in the card which was beyond the purpose of the test. This was noted on the Rorschach as a tendency to try to achieve more than he is capable of. The claimant's eye-hand coordination is fair, and was depressed by his need to be careful and deliberate since this test is a speed exercise. Abstract spatial relations is good and he is capable of concrete organization of spatial items such as jig-saw cut-outs of common everyday objects. The claimant does show a decreased ability to plan ahead. He has difficulty with cause and effect relationships and does not plan well and adaptively. It is highly probable that both low scores stem from a long-term behavioral tendency to not attend to details and information which is notof immediate personal concern. Long term since many of the items are learned before adulthood ie: a pig has a tail, and that we cannot walk on water because we are heavier than the water and sink or that some boats are made of iron. These were the kind of items which failed.

The claimant is capable of managing financial matters in his own interest.

Norman Korobow, Ph.D.
Certified Psychologist

NORMAN KOROBOW, PH.D.

1655 FLATBUSH AVENUE BROOKLYN, N.Y. 11210 AREA 212 377-5500

Name: Felix Gonzalez Rojas Age: 56 Date: Dec.4,74

(WAIS) HIWA Spanish version of WAIS

Verbal Scale	Scaled Score
Information	5
Comprehension	9
Arithmetic	12
Similarities	11
Digit Span	10
Vocabulary	10
	Sum Scaled Scores = 57
	Verbal IQ= 99

Performance Scale	Scaled Score
Digit Symbol	6
Picture Completion	0
Block Design	9
Picture Arrangement	6
Object Assembly	9
	Sum Scaled Scores = 30
	Performance IQ = 92

Full Scale IQ = 96

Norman Korobow Ph.D.

Exhibit AC-6

100 La Salle Street
New York, N. Y. 10027
December 8, 1974

Dr. Joseph J. Oliva
Chief Medical Consultant
N.Y.S. Dep't. of Social Services
Bureau of Disability Determinations
Two World Trade Center
New York, N. Y. 10047

Dear Dr. Oliva,

The following is the report of the psychiatric social service interview of Mr. Felix Gonzalez-Rojas, as requested by your office. Mr. Gonzalez-Rojas was interviewed on Saturday, Dec. 7, 1974. He came to the interview alone. He is a Spanish speaking male with limited ability in speaking English. The interview was conducted in English and Spanish. Mr. Gonzalez-Rojas wears an abdominal brace, which he showed me, and walks with a cane.

Mr. Gonzalez-Rojas relates that he has not worked since 1971. At that time he had been a press machine operator. He had previously worked in New York for approximately thirteen years, most of it in factory work. He worked from five to ten years, in Puerto Rico, on sugar cane. His employment was terminated due to an accident on his job. As he relates it he fell down two floors, through a large hole. As a result two bones were broken. He was admitted to Brooklyn Hospital, where he remained hospitalized for eighteen days.

He describes feeling very poorly. He says every day he becomes iller and iller. As an example he reports finding employment last year with the Land Seed Refrigerator Co. at 931 Utica Avenue, Brooklyn. He shows me a note from that firm stating that he was unable to work more than two hours. He attends the Chest Clinic, at the Fort Greene Health Center, 295 Flatbush Avenue Extension, Brooklyn. They have told him that he has tuberculosis. He shows me white pills that he must take three times a day. He also shows me red and gray pills that he says are pain killers. If he doesn't take these pills his pain recurs. He also sees a private physician, a Dr. Morris Springer, 204 Linden Blvd., Bklyn. He describes Dr. Springer as a compensation doctor. He feels that he is very ill. He becomes very ill when it is cold and suffers from much pain. When the weather is warmer he feels stronger. He walks with a cane to avoid falling. He often becomes nauseous.

Mr. Gonzalez-Rojas lives alone in a room and a half. He pays $100 month for rent. He receives $122 month in worker's compensation and $93 semi-monthly in public welfare. As he must send money to his sister in Puerto Rico he finds these funds insufficient. He would like to receive his disability benefits and return to Puerto Rico where the weather is warmer. He is not married

Exhibit AC-7 (209)

and has no children. At one time he did have a girl friend, but no longer. When he feels well he is able to shop and clean his apartment. When he feels poorly he eats in restaurauntc. He often suffers from pain in his right arm, hand and back, and this prevents him from cleaning his apartment. When feeling well he walks, although he is only able to walk five blocks. Sometimes he visits a friend. Most of his time is spent sitting down or in bed, watching television. He cannot remain in one position (i.e. in bed or sitting) for more than two or three hours.

His medical history includes a hernia operation in 1970 at Unity Hospital. He was hospitalized for eight days. Nine years ago Mr. Gonzalez-Rojas was operated on for a tendon at Unity Hospt. He relates that a tendon was cut in his lower buttocks. He remained hospitalized for eleven days. He says that as a result of this operation he is unable to drink any liquor, as liquor causes him irritation. One year ago he had an operation on his throat at Brooklyn Hospital. He was hospitalized a total of four days.

He was born in Ciales, Puerto Rico on July 6, 1917. He is one of ten children. Only five of the children are now alive. There is one brother and three sisters (in addition to himself) now living in Puerto Rico. He completed two years of school in Puerto Rico. His mother died sixteen years ago of chest trouble. His father died about eighteen years ago of a cerebral attack that lasted three days. Mr. Gonzalez-Rojas tells me that one sister died of tuberculosis, which she gave to their mother who also died. He describes one sister as having worked too hard on a machine, and as a result died of tuberculosis. One brother died of tuberculosis at age twenty three.

At this point in the interview Mr. Gonzalez-Rojas begins to cry, and acknowledges feeling sad. When asked why he is crying he laughs. When asked what he thinks about when he is sad, he laughs again, and says he thinks of his family. When asked if he thinks of his parents or his siblings, he tells me of the death of an overweight sister from stomach trouble. All of his siblings died while he was in Puerto Rico. He subsequently relates the death of yet another brother. He tells me that he and the doctors are trying but that he is very ill. He tells me of a sister who died of cancer of the throat at age twenty six. He relates the death of a brother at age nine, when he was twenty eight years old. There is, he tells me, no family history of mental illness.

Yours truly,

Barbara Benson

BEST COPY AVAILABLE

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
P.O. BOX 2518, WASHINGTON, D.C. 20013

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BUREAU OF
HEARINGS AND APPEALS

REFER TO:
HA:P
[redacted]-26-9405

Mr. Eric A. Sandbakken
The Legal Aid Society
Park Place Office
Eleven Park Place
New York, New York 10007

28 JAN 1975

Dear Mr. Sandbakken:

Re: Mr. Felix Rojas Gonzalez, 5611 Kings Highway
Brooklyn, New York 11203

This refers to our pending review of the administrative law judge's decision concerning the claim for benefits filed by the above-named individual. We have received additional evidence which we propose to include in the record of the case. This evidence is enclosed for your information.

If you wish to submit (1) written comments concerning the evidence received, (2) a brief or written statement as to the facts and law in the case, or (3) additional evidence not previously supplied, the Appeals Council will carefully consider the material. Please send it to the Appeals Council within 20 days from the date of this letter, or inform us within that time when it may be expected. If you need additional time, please let us know.

If you desire, you may appear alone or with the claimant before the Appeals Council in Arlington, Virginia, to present oral argument of the case. If you want to appear, please inform us within 20 days from the date of this letter, and you will be sent a notice of the time and place of such appearance.

If we have not heard from you within the 20-day period, we will assume that you have no comments or statement to make, that you have no further evidence to submit, and that you do not wish to appear before the Appeals Council. The case will still receive the same careful consideration. We will then issue our decision based on the additional evidence and the other evidence of record.

Sincerely yours,

Irwin Friedenberg
Member, Appeals Council

Enclosures 7

cc:
Mr. Felix Rojas Gonzalez

Exhibit AC-8
(AP)

(5-73)

EXHIBIT AC-8

Felix Rojas Gonzalez
583-26-9405

1. Medical report dated June 13, 1974, from Thomas C. Guthrie, M.D.
2. Professional qualifications of Thomas C. Guthrie, III, M.D.
3. Medical report dated November 25, 1974, from Leon Kaforfer, M.D.
4. Professional qualifications of Leon Kaforfer, M.D.
5. Report of psychiatric social service interview, dated December 3, 1974, from Barbara Bansen, Psychiatric social worker.
6. Report of psychological evaluation on December 4, 1974, by Norman Monobon, M.D.
7. Self-addressed envelope.